

JAMS

ORANGE COUNTY, CALIFORNIA

CENTURY PRODUCTS, LLC, a
California limited liability company

Claimant

vs.

Ref No. 1220033832

CENTURY BOARD USA, LLC, a New
York limited liability company
ECOMAT NEVADA, INC., a Nevada
corporation, and WADE BROWN, an
individual

CERTIFIED
COPY

Respondents

AND RELATED COUNTER-ACTIONS

DEPOSITION OF EDWARD J. BUTTERISS

Irvine, California

Friday, December 16, 2005

Reported by:
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AND RELATED COUNTER-ACTIONS.

Deposition of EDWARD J. BUTTERISS, taken on behalf
of Respondents/Counter-Claimant, at 2 Park Plaza,
Suite 450, Irvine, California, beginning at 10:03 a.m.
and ending at 5:56 p.m. on Friday, December 16, 2005,
before Veronica Vera, Certified Shorthand Reporter,
No. 11887.

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2
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4 LLC and Respondents Ecomat Nevada, Inc. and Wade Brown:

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WITNESS

EXAMINATION

EDWARD J. BUTTERISS

By MR. JULANDER

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1 Irvine, California, Friday, December 16, 2005

2 10:03 a.m. - 5:56 p.m.

3
4 EDWARD J. BUTTERISS,

5 having been administered an oath, was examined and
6 testified as follows:

7
8 EXAMINATION

9 BY MR. JULANDER:

10 Q Would you please state and spell your name for
11 the record.

12 A Edward J. Butteriss, B-u-t-t-e-r-i-s-s.

13 Q Mr. Butteriss, have you ever had your deposition
14 taken before?

15 A No.

16 Q This is your first time?

17 A First time.

18 Q I am honored. I'm assuming that you've had an
19 opportunity to talk to your attorney about the process
20 here?

21 A Yeah.

22 Q And with that, I'm just going to go over just a
23 couple of rules that will help move us along today. The
24 first issue that we're going to run into is -- our court
25 reporter is over here taking down everything that we say,

1 and so it's very hard for her to take down two people
2 speaking at the same time. So it would be appropriate if
3 you can wait until a question has been asked completely,
4 and then I'll let you finish your answer before I start
5 talking. Hopefully we can make this a smooth transcript
6 in that sense.

7 Is that okay?

8 A It's fine.

9 Q Another issue is to make sure that our
10 communications are verbal today. Oftentimes we nod or we
11 say "uh-huh," "huh-uh." You know, nonverbal and
12 semiverbal responses don't go down very well on our
13 record. So we'll all try to remind you of that, to make
14 sure that all your responses are verbal.

15 Is that all right?

16 A Yes.

17 Q Is there any reason that you can't give your --
18 oh, there was one other thing I wanted to cover. And
19 that is, if you respond to a question that I ask today,
20 we're all going to assume -- and presume that our
21 arbitrator will assume -- that you understood my
22 question. So if you don't understand my question in any
23 respect that you feel is important, please tell me that
24 you don't understand my question, and I'll try to
25 rephrase it. But if you answer my question, we'll all

1 assume that you've had an understanding of the question
2 and you're responding directly to the question.

3 Is that fair?

4 A Yes.

5 Q Now, is there any reason that your deposition
6 can't go forward today and give us your best testimony?
7 I know you've got a medical problem. Are you under any
8 medication or drug that --

9 A No.

10 Q -- well, that might impair your ability to
11 understand my questions or to respond or to memory,
12 anything?

13 A I don't think so.

14 Q Mr. Butteriss, briefly I'd like to understand
15 your technical educational background. You graduated
16 from college?

17 A Yes.

18 Q Which college was that?

19 A It's now called University of the South Bank,
20 London, England.

21 Q And when did you graduate from that institution?

22 A 1961.

23 Q Did you receive a degree from the University of
24 South Bank?

25 A Yes.

1 Q What was your degree?

2 A An honor's degree in electrical engineering.

3 Q Did you do any subsequent -- did you receive any
4 subsequent degrees after your electrical engineering
5 degree?

6 A Yes.

7 Q And what other degrees have you received, first
8 of all?

9 A An M.B.A. from Golden Gate in San Francisco,
10 while I was with Bechtel.

11 Q When did you receive that M.B.A.?

12 A 1973.

13 Q Have you received any other degrees from
14 education?

15 A No.

16 Q Have you undertaken any other specialized
17 courses or training in technological -- in any
18 technological area?

19 A I took many courses when I was at Bechtel,
20 mainly to do with power plants, all the systems,
21 equipment that is typically in a power plant.

22 Q Any other training -- formalized-type training
23 programs that you've been through in technological areas?

24 A I'm a professional engineer in the State of
25 California.

1 Q Are you licensed?

2 A Yes.

3 Q And to be a licensed engineer, you need training
4 or --

5 A Yes. Although in this case, they accepted my
6 private training and experience.

7 Q You say you're a licensed engineer. Tell me
8 about that license. What is it called? What is it
9 classified as?

10 A It's called a professional engineer. And it's a
11 license issued by the State of California. I guess it's
12 a professional engineering board. I can't remember what
13 it's called.

14 Q Is it a general engineering license, or is it
15 more specialized?

16 A No. It's specific. Mine is in control systems,
17 which is allied to electrical.

18 Q Do you have, you know, a license -- for example,
19 you know, they have different types of contracting
20 licenses that -- you can have a B license or --

21 A I don't have a contractor license.

22 Q I'm using it as an analogy.

23 A I'm a member of a number of institutions.

24 Q We'll get to that. Do you have a way to
25 describe your license for somebody who's never met a

1 licensed engineer? How would you describe for them a way
2 to understand what license you have?

3 A It includes some electrical engineering, control
4 systems engineering which is partially mechanical, a
5 little bit of corrosion engineering. It covers a broad
6 swab of how to put systems together to make them
7 function, basically.

8 Q When you say "how to put systems together," are
9 you talking about electrical systems or any system?

10 A Any system.

11 Q So for a example, a system that's based on
12 water, you would be licensed?

13 A To do the control systems.

14 Q Now, what are the control systems? Those are
15 electrical, are they not?

16 A They could be electrical. They could be
17 mechanical.

18 Q Okay. Tell me about --

19 A For example, if you have a piece of equipment in
20 a power plant that needs to be controlled to deliver a
21 certain flow, then there are functions within that plant
22 that have to be measured and the control system that has
23 to make this piece of equipment do what you want it to
24 do.

25 Q So when we're talking about control systems,

1 that's your area of specialty in engineering; is that
2 correct?

3 A Yes.

4 Q And when we're talking about control systems,
5 you're not talking about engineering the system itself;
6 you're talking about engineering a way to control that
7 system? Is that a very broad understanding?

8 A If you talked specifically about the
9 professional engineering function, yes, I would say
10 that's basically true. But it requires an understanding
11 of measurements --

12 Q Uh-huh.

13 A -- and of the system that you're controlling.
14 You can't just go and control something without
15 understanding what it does, why it does it, and what
16 needs to be controlled.

17 Q That makes perfect sense. When did you receive
18 this license, your engineering license in the State of
19 California?

20 A About 1976.

21 Q Have you been licensed in any other state?

22 A No -- well, talking just about the U.S.A.?

23 Q Yes.

24 A No.

25 Q Do you have any other professional licenses

1 other than that of a controlling systems electrical
2 engineer?

3 A I'm a chartered engineer in the United Kingdom.

4 Q And what does that mean?

5 A That is somewhat equivalent to a P.E. here.

6 It's in electrical engineering, and that's through the
7 Institution of Electrical Engineers in London. I'm a
8 fellow of the institution.

9 Q When did you receive that distinction, as a
10 charter engineer?

11 A 196 -- I want to say 1966 or -7.

12 Q Is your State of California engineering license
13 current today?

14 A Yes.

15 Q And your license, your charter engineer license
16 is --

17 A Is current. And that also gives me the
18 Federation of European Engineers through being a charter
19 engineer in England.

20 Q Okay. I'd like to understand now a little bit
21 about your work background.

22 A Uh-huh.

23 Q First of all, how long have you been here in the
24 United States?

25 A I've been -- I first came to the states in 1971.

1 Q And I should be more clear. I'll be more
2 clearer in my question. And that is, when is the first
3 time you came here to the United States as a permanent
4 resident?

5 A 1971.

6 Q And when you came here to the United States, did
7 you come here for employment?

8 A Yes. I was brought here by an American company.

9 Q And what was the name of that company?

10 A Bechtel, B-e-c-h-t-e-l, Corporation.

11 Q What position did you hold at Bechtel when you
12 came here in 1971?

13 A Senior engineer.

14 Q And can you describe for me what your general
15 job -- well, let me ask you this first. How long were
16 you with Bechtel?

17 A 25 years.

18 Q Okay. So that brings us up to '96?

19 A Yes.

20 Q That's pretty impressive, how quickly I did that
21 math, isn't it?

22 A Thank you.

23 Q So what I'd like to understand, if I can, is the
24 evolution of what you did at Bechtel from the beginning
25 to the end in just general terms. If we need to go into

1 details, we will.

2 A Okay.

3 Q So you started as a senior engineer?

4 A Senior engineer. I was in their scientific
5 development department. I worked on the jet engine test
6 facility. Then I joined the power department or power
7 division, I guess it was those days, and worked on an
8 oil-fired power plant. And then I went to a nuclear
9 power plant which was being built in Pennsylvania. And
10 then I became a supervisor of engineering for a power
11 plant in New Jersey. And I went to Spain and worked on a
12 pressurized water nuclear power plant.

13 The reason I went to Spain was partially
14 personal because my parents were in England at the time
15 and were reaching near the end of their life. So --

16 Q Wanted to be near them?

17 A Yes. But then two years later, I was
18 transferred to Taiwan where I was head of the engineering
19 for -- on the job site for a two-unit nuclear boiling
20 water reactor power plant, which meant I had to solve all
21 engineering problems on the site and everything that came
22 up -- and there were a lot of them. Then I was a project
23 manager on that job for two years.

24 And from there, I went to Texas as a site
25 engineering manager for a pressurized water two-unit

1 power plant. I was there for two years.

2 I went to Korea and took over the engineering
3 for a pressurized water power plant in Korea. I came
4 back to Bechtel -- that will be 1987 -- and I was chief
5 engineer for control systems in the Los Angeles office
6 until I retired, 1986 -- '96, or just before I retired.
7 I did go for three months to Boston and worked on the
8 Boston artery of the new road they put in.

9 Q Uh-huh.

10 A I redid the specifications for the computer
11 systems that controlled all of the systems on that
12 subway. While I was chief engineer in Los Angeles, I was
13 doing power work, Gas Company work, refinery work, and
14 some industrial.

15 Q And that is -- going back to your specialty, you
16 were doing -- working on the control systems?

17 A I headed a department at one time of 120 people
18 who worked on different disciplines. My function was to
19 staff the projects -- hire the people, staff the
20 projects, quality control, and we re-engineered some of
21 the internal systems within Bechtel. And we worked on
22 standardization.

23 Q Is it fair to say that all of the work that you
24 did at Bechtel fell under the classification of your
25 engineering license?

1 A No.

2 Q What work fell outside of that?

3 A Well, when I was in charge of all of
4 engineering, I had civil engineers working for me,
5 mechanical engineers, electrical engineers, plant design
6 engineers, stress engineers, pretty much the whole
7 gambit.

8 Q Well, did your license allow you to review their
9 work?

10 A Yes.

11 Q In what respect?

12 A Well, I didn't need a license to review their
13 work.

14 Q I see. And with respect to those various
15 engineering categories, what specifically did you do with
16 them? Did you just oversee their work, or did you review
17 their work? What did you do?

18 A I reviewed their -- I made sure that they were
19 doing what needed to be done. I reviewed their work. I
20 ensured that the staff who were doing the work knew what
21 they were doing. And specifically, I got involved in a
22 lot of mechanical engineering because we had a lot of
23 problems on the job site from mechanical engineering. So
24 I had to go find out how things worked and figured out
25 why they weren't working.

1 Q Is that self-training that you did, or did you
2 seek out some formal training to --

3 A I did a lot of self-training. But I also had a
4 lot of experts within Bechtel that I could call on and
5 talk to.

6 Q Over what period of time were you dealing with
7 mechanical engineers as you've just identified?

8 A In Taiwan. The whole four and a half years I
9 was there, I would say, most of my problems were
10 mechanical. And in Korea, also a lot of mechanical
11 problems. So six, seven years.

12 Q Were you considered at Bechtel an expert in
13 mechanical engineering?

14 A I'm not quite sure what an expert in mechanical
15 engineering in Bechtel would be. There were lots of
16 experts in Bechtel who had very narrow fields. I'm a
17 broad-based engineer, but I can burrow down onto
18 particular problems, try and figure out what's wrong with
19 them. If I can't figure it out, I get the people who can
20 figure it out. I have to come up with solutions to keep
21 the job running.

22 Q Problem solving?

23 A Problem solving, right.

24 Q Have you ever had any formal training in
25 mechanical engineering?

1 A Yes.

2 Q What is that?

3 A My course in university -- I had courses in
4 mechanical engineering, the courses I did in Bechtel had
5 courses in mechanical engineering, and in process
6 engineering.

7 Q Have you ever sought out a mechanical
8 engineering license?

9 A No.

10 Q Would you feel yourself qualified as a
11 mechanical engineer, for example, to be licensed as a
12 mechanical engineer?

13 A I would have to do some homework on some of the
14 calculations. But generally speaking, I could probably
15 do it.

16 Q If you were to name one or two people that could
17 verify that, who would it be?

18 A It's almost ten years since I left Bechtel. I'm
19 not sure who's there anymore; Jack Blasingame, who was a
20 mechanical engineer in Taiwan when I was there. He was
21 chief mechanical engineer in the office in Taipei.

22 Q How do you spell his last name?

23 A B-l-a-s-i-n-g-a-m-e.

24 Q And you don't know if he's still with Bechtel or
25 not?

1 A He's not. He's retired.

2 Q Do you know where he lives?

3 A Yes.

4 Q Where is that?

5 A Northern California, Occidental.

6 Q Anyone else that you would say could verify your

7 qualifications or credentials as a mechanical engineer?

8 A I think offhand -- trying to think of Korea.

9 I'll have to get you a name.

10 Q Other than the work that we're going to talk

11 about that you've done at Century Products, have you ever

12 been listed as an inventor in a patent application that

13 involved any mechanical engineering?

14 A No.

15 Q After you left Bechtel, did you seek any further

16 full-time employment?

17 A No -- well, at least not with a company. I

18 started up my own organization.

19 Q Is that when you started Global Tradelinks?

20 A Yes.

21 Q '96?

22 A Yes -- 1995, actually. But I also did some work

23 under a dba called Management and Technology.

24 Q That's a dba of Global Tradelinks or --

25 A No, it's personal.

1 Q And just tell me about that. What work? When?

2 A I did work mainly for the Gas Company. I did a
3 number of things for them. I did a layout of their whole
4 transmission system with all of the safety valves in the
5 system and showed all the earthquake crossings of the
6 pipelines, the washouts -- possible washouts. So they
7 were looking at the safety of the pipelines.

8 I did a report for them after the 19 -- gosh,
9 was it '98 when they had all those heavy rains? They had
10 a lot of problems with the pipelines. They asked me to
11 go in and do a management report on how well it
12 responded. I did that -- project manager for them for an
13 upgrade of one of their compressor stations.

14 I'm still doing work for them now. I do the
15 scope of -- I've done that scope of work for two, three,
16 four, five -- now I'm on the fifth compressor station
17 upgrade.

18 Q How would you classify that work? Is that
19 engineering work in any way?

20 A Yes. It's understanding what is there now,
21 putting together a scope of work to upgrade all the
22 systems. In this case, it's all the instrumentation,
23 control systems for engine generators, turbine
24 generators.

25 Q Would that work be classified under your

1 electrical engineering license?

2 A Don't need it for that. I'm not stamping any
3 drawings or -- it's more broader scope work: How are we
4 going to fix the problem we've got here? Okay, let's do
5 it this way. And then I write a specification for it and
6 generally do about a 50-page scope of work describing the
7 work, describing the system that's there now, what needs
8 to be done to upgrade it. Then it goes out for bid.

9 Q Has any of the work that you've done been as a
10 consultant?

11 A Yes.

12 Q And in your work as a consultant, has any of
13 your work you've been doing been specifically related to
14 mechanical engineering?

15 A Only inasmuch as all the equipment that's there
16 being controlled -- that's mechanical. Obviously, you
17 have to understand what it does.

18 Q But understanding what it does is one thing.
19 But actually working on that equipment as a mechanical
20 engineer is a whole different thing; right?

21 A No. I haven't specifically upgraded mechanical
22 components from those systems.

23 Q Has anyone ever hired you specifically as a
24 mechanical engineer?

25 A No.

1 Q When you started Global Tradelinks, did you have
2 a specific business objective in mind?

3 A We started originally with the objective of
4 doing some overseas trading business, specifically in
5 mechanical and electrical control systems equipment for
6 power plants, refineries, chemical plants.

7 Q Did this ever come to fruition? Did you
8 actually ever enter that business?

9 MR. ROBINSON: Let him finish his --

10 THE WITNESS: Sorry.

11 MR. ROBINSON: You're talking over him.

12 BY MR. JULANDER:

13 Q And I apologize. My questions -- sometimes I
14 have a bad habit. I ask a broader question, and then I
15 try to narrow it. I'll try to do better.

16 But anyway, did this business actually come into
17 fruition and you actually get into the market of selling
18 these mechanical and electrical control systems?

19 A Yes.

20 Q For approximately how long?

21 A We still do a little bit of it, but not very
22 much. It -- the problem with -- the biggest year was
23 maybe 2000, something like that. But we've dropped off
24 since.

25 Q What other businesses other than -- we'll set

1 aside for now plastic lumber.

2 A Uh-huh.

3 Q Let's set aside that. What other businesses?

4 A We supply engineering personnel for the Gas
5 Company and now to another company as well.

6 Q It's almost like a temporary --

7 A Yes.

8 Q -- workers?

9 A Temporary, but they've been temporary for
10 several years. So --

11 Q And that's an ongoing business of Global
12 Tradelinks?

13 A Yes.

14 Q Any other business that Global Tradelinks has
15 been involved in? Again, setting aside the plastic
16 lumber.

17 A We used it as a vehicle to get involved with
18 thermal engineering, but we started up another company
19 that is called Thermal West. And that was to supply
20 heating and cooling systems for municipal entities.

21 Q Is that an ongoing business?

22 A No.

23 Q Any other businesses that you've been involved
24 in through Global Tradelinks?

25 A No.

1 Q I asked earlier about if you've been the
2 inventor on any patents.

3 A Uh-huh.

4 Q I'd like to follow up with that just a little
5 bit and ask you, first of all -- again, setting aside
6 your work for Century Products --

7 A Uh-huh.

8 Q -- have you ever been listed as the inventor on
9 a patent application?

10 A No.

11 Q Have you ever invented any -- anything that is
12 protected by trade secrets? Again, setting aside any
13 work at Century Products.

14 A No. I came up with lots of solutions when I was
15 with Bechtel. But Bechtel is more interested in getting
16 a job done than trying to figure out whether they can
17 call something a trade secret. So we -- we didn't engage
18 in that. It was a question of: Figure out a way to get
19 it done and then let's do it.

20 Q When you say "we" in reference to Global
21 Tradelinks, who is "we"? Who are the principals of
22 Global Tradelinks?

23 A Well, the time we're talking here, Ian Skidmore
24 was my partner or co-owner -- he still is, as a matter of
25 fact.

1 Q Are there any other owners of Global Tradelinks?

2 A Well, for a while, John Taylor. Only for maybe
3 a couple years, John Taylor was a co-owner.

4 Q When did his co-ownership cease?

5 A This year.

6 Q Why did his ownership in Global Tradelink cease?

7 A I have come to the conclusion that I want to
8 take Global Tradelink in a different direction. And I
9 I've talked it over with John and Ian, and we're in the
10 process of making some changes. And John agreed to step
11 aside.

12 Q Ian, though, will remain on? Mr. Skidmore?

13 A It's not finalized yet.

14 Q And the different direction that you're heading
15 with Global Tradelinks, does it have anything to do with
16 plastic lumber in any way?

17 A No.

18 Q This new direction, does it have anything to do
19 with Century Products in any way?

20 A No.

21 Q When did you first become interested in plastic
22 lumber?

23 A A lady who used to work at Bechtel called my
24 partner, Ian Skidmore, and suggested that we go talk to
25 someone who had some plastic lumber. We were looking

1 around -- like the thermal engineering that we did --
2 looking around for opportunities to open up new
3 businesses. And she thought that maybe there was
4 something here where we could help the company in some
5 way.

6 Q What was her name?

7 A Julia Ince Scott.

8 Q Julie?

9 A Julia, I-n-c-e.

10 Q I-n-c-e?

11 A Scott, S-c-o-t-t.

12 Q Do you know how -- well, first of all, she
13 suggested that you look into plastic lumber. Was she
14 specific in suggesting that you look into Century-Board
15 or Ecomat?

16 A Specifically, Ecomat? Well, in this case it was
17 Century-Board West, which was a company from Washington
18 state.

19 Q Do you know how she knew about Century-Board
20 West?

21 A I gather from previous association with Wade. I
22 don't know exactly how she became associated with Wade,
23 but she was associated with Wade.

24 Q Did you enter into any agreements with
25 Julia Ince Scott regarding your activities with Mr. Brown

1 or any of his affiliated entities?

2 A We have no written agreements.

3 Q Well, that wasn't my question. Answer my
4 question. My question is, did you have any agreements
5 with Julia Ince Scott, written or oral, anything?

6 A At one time, we tried to put in place an
7 agreement whereby we had put in place a -- an agreement
8 with Wade that we could be recompensed for finding him a
9 project. And she was going to share in that -- in the
10 amount of money that we would have got from Wade, had he
11 found the project, from our commissions.

12 Q So if I'm understanding correctly, then, you
13 were going -- I'm skipping ahead in chronology a little
14 bit. But if you were to have found a financier for
15 Century-Board or one of Wade's entities that could
16 commercialize his process, Wade -- you were attempting to
17 reach an agreement that Wade would --

18 A He can recompense us.

19 Q He would pay you, like, a finder's fee?

20 A Finder's fee.

21 Q And then Julia Ince Scott would receive part of
22 that finder's fee?

23 A That was the -- the plan. It never came to
24 fruition, but that was the plan.

25 Q So the answer to my question when I asked you if

1 there were any agreements between Global Tradelinks,
2 between you, and Julia Ince Scott -- was no?

3 A I guess it's no.

4 Q So you never reached an agreement with her --

5 A No.

6 Q -- that would have compensated her for
7 anything --

8 A No.

9 Q -- between Mr. Brown and his companies?

10 A No.

11 Q Did she ever make any claims that there was an
12 agreement?

13 A She approached us and thought that we should
14 recompense her in some way for her introduction of Wade,
15 of Century-Board West, and then Wade after that.

16 Q And you agreed or disagreed with her request?

17 A We made her an offer, and she re -- well, she
18 didn't refuse. She never ever took it up.

19 Q What was the offer that you made to her?

20 A If I remember correctly we were -- we offered
21 her \$20,000 and possibly some stock. And I think that
22 was in an e-mail. But we had a number of meetings with
23 her and her husband, but I don't think any meeting notes
24 were ever written up.

25 Q Where did these negotiations over compensating

1 her for the introduction to Century-Board West and
2 Mr. Brown -- where did they end up?

3 A It just sort of founded because I remember
4 sending her an agreement which would have compensated her
5 for the finder's fee, and she never sent it back. And we
6 sent her an agreement whereby she would find funding for
7 Century Products, and she never ever sent it back. So we
8 never ever received anything back from her with comments
9 or changes or anything. She just didn't send it back. I
10 don't know why.

11 Q And so we can -- no consideration was actually
12 paid to Mrs. Scott?

13 A No, nothing was paid and -- no, just nothing was
14 paid. No agreements were signed.

15 Q On her recommendation, you did actually go out
16 and explore or investigate Century-Board West?

17 A We had a meeting with them in the Hampton Inn
18 probably about March of '99 -- Kap Pease, Jimmy Ewart,
19 and John Nahon. And that was where we were first
20 introduced to Wade's product. At the time, we didn't
21 know it was Wade's product. We didn't know Wade. On the
22 basis of that meeting, we took Century-Board West to
23 Cholla power plant in Arizona because we -- it was one of
24 the plants that Bechtel built, and we knew the plant --
25 and investigated whether or not there was space at the

1 plant to put a factory and whether the ash would be
2 available. And it turned out that Phoenix Cement,
3 company in Phoenix, actually had a contract for the ash.
4 And then we took them to another meeting with Phoenix
5 Cement. And that was the amount that we did with
6 Century-Board West.

7 Q Through your work in investigating Century-Board
8 West, did you become aware of Mr. Brown's involvement in
9 this technology?

10 A I don't think we specifically found that out
11 through Century-Board West, no.

12 Q How did you come to find out about Mr. Brown and
13 his work and his affiliated entities?

14 A Julia suggested that we should have a meeting
15 with Mr. Brown at his factory in Poughkeepsie, and we did
16 some homework on financing. We found a gentleman in
17 Long Beach. I think his name was Bent, and I believe the
18 company's name was GoodSmith or something like that. And
19 we took him with us to a plant in Poughkeepsie, and we
20 met Wade there.

21 Q For the first time; right?

22 A Yes.

23 Q And when you say "we" this time, this is you --
24 Mr. Butteriss, Mr. Bent -- and was Mr. Taylor with you?

25 A John Taylor and Julia Ince Scott.

1 Q How long did -- how long did your meeting with
2 Mr. Brown last? How long were you there at New York,
3 would you say?

4 A It was one day. We weren't there all day, I
5 don't think, most of the day.

6 Q And do you remember approximately the month and
7 year of this first meeting?

8 A It was -- let's see. I don't remember whether
9 it was 2000 or 2001. I think it was 2001, and it was
10 probably -- I'm going to say April, but I'm not sure.
11 But we -- I'm sure I can get that date.

12 Q I'm -- I'm going to show you a document that I'm
13 going to mark as Exhibit 1. We'll have our court
14 reporter mark these formally at the end of the
15 deposition, if it's all right.

16 (Exhibit No. 1 marked for identification.)

17 BY MR. JULANDER:

18 Q For the record, Exhibit 1 is a compensation
19 agreement --

20 A Yes.

21 Q -- between Ecomat, Inc. and Global Tradelinks --

22 A Right.

23 Q -- dated 7th of February, 2000.

24 A Uh-huh.

25 Q Just want to confirm, Mr. Butteriss, that that

1 is your signature on the last page of this exhibit.

2 A Yes, uh-huh, it is.

3 Q Does this help refresh your recollection about
4 the time frame of when you met with Mr. Brown for the
5 first time?

6 A I presume it was before this, but -- it must
7 have been, yes. And this was 2000?

8 Q February of 2000.

9 A Oh, so that was about the time, uh-huh.

10 Q Was any work actually done in connection with
11 this compensation agreement?

12 A Yes.

13 Q What work was that?

14 A We talked to a company called DKE here in
15 Southern California. We did quite a bit of work on
16 bringing them along to put something into one of their
17 sites to make the lumber. Actually, I think at the time,
18 it migrated into being a pallet plant, and I believe Wade
19 had someone in Santa Barbara who had a design for a
20 pallet. And I remember we took him -- Wade came along to
21 one of the meetings to DKE to see if we could get them
22 involved in putting in the pallet plant.

23 Q When you first met Mr. Brown --

24 A Uh-huh.

25 Q And it would be late '99, early 2000; is that

1 fair?

2 A Yeah, it sounds right.

3 Q -- did you or anyone that was associated with
4 you at that time have any expertise in plastic lumbers?

5 A No.

6 Q Did you or anyone with you at that time have any
7 expertise in plastic lumber systems?

8 A No -- unless Julia did. She'd been working with
9 Wade for a while.

10 Q To your knowledge, did you or anyone with you
11 have any knowledge or expertise in plastic lumber
12 equipment?

13 A You mean making plastic lumber?

14 Q Sure. Equipment used in the formation or making
15 of plastic lumber, yes.

16 A No -- well, except we'd been introduced to it by
17 Century-Board West. But they had told us what was
18 required to do this. And they had given us some -- some
19 financial models of their plants that they were planning
20 to put in.

21 Q Did you consider, based on the information you'd
22 received from Century-Board West -- that you or anyone
23 that you were with that was affiliated with you and at
24 the time that you met with Mr. Brown -- that that gave
25 you some expertise?

1 A I wouldn't call it expertise, no.

2 Q Information?

3 A Uh-huh. We had information.

4 Q But no expertise?

5 A No, no -- we had information about models which
6 showed what kind of equipment you needed and what kind of
7 money that you could make in manufacturing this material.

8 Q Prior to your investigation of Century-Board
9 West, had you ever been involved with a manufacturing
10 company?

11 A I worked for General Electric Company in England
12 for 14 years. They were manufacturing.

13 Q And that was before coming to the United States?

14 A Yes.

15 Q Here in the United States, since 1971, have you
16 been involved with any company that was involved in
17 manufacturing?

18 A All of the companies that Bechtel bought
19 equipment from were manufacturers. And we visited their
20 plants. We looked at their equipment. We made sure they
21 could do what they said they could do before we gave them
22 purchase orders for equipment.

23 Q And that was the extent of your --

24 A That's the extent of my involvement.

25 Q Before you became familiar or met with

1 Century-Board West, had you ever been involved in
2 starting up a manufacturing process?

3 A No.

4 Q Do you know -- Mr. Skidmore, had he been
5 involved in starting up manufacturing processes before
6 you became acquainted with Century-Board West?

7 A I don't know. I know that he worked for
8 different people before Bechtel. I don't know exactly
9 what he did.

10 Q What is Mr. Skidmore's area of professional
11 training?

12 A Mechanical engineer.

13 Q And is he a licensed mechanical engineer?

14 A No.

15 Q Does he have a degree in mechanical engineering?

16 A I know he has some certification, but I --
17 exactly what it is, I don't remember.

18 Q When he was working at Bechtel, was he working
19 as a mechanical engineer for Bechtel?

20 A He was working as a start-up engineer. In fact,
21 he ran the start-up crew for Bechtel Power Corporation in
22 Los Angeles.

23 Q What does "start-up" mean in that context?

24 A It means putting all pieces of equipment
25 together that have been built and testing them out and

1 making sure that they will work the way they're supposed
2 to and building the plant up so that the whole thing
3 works.

4 And before that, I know he worked for an
5 insurance company inspecting mechanical equipment boilers
6 in -- I think in the Los Angeles area.

7 Q When you sought out DKE to interest them in
8 investing in the technology that Mr. Brown was working
9 with --

10 A Uh-huh.

11 Q -- had you personally done any due diligence or
12 investigation with respect to Mr. Brown's technology
13 other than speaking directly with Mr. Brown?

14 A Well, we had assurances from Century-Board West,
15 and we went and we saw Mr. Brown. He demonstrated
16 manufacturing. And I know once I talked to one of his
17 customers who said he was happy with the product.

18 Q You don't recall which customer?

19 A No, but I might be able to find it.

20 Q Do you recall what the product was?

21 A It was some boards that he was making for this
22 company. I'm not sure what they did with them, if --

23 Q When you went to Mr. Brown's plant, Mr. Brown
24 had equipment on --

25 A Yes.

1 Q -- the property; correct?

2 A Uh-huh.

3 Q And it was actually mixing chemicals and making
4 lumber; correct?

5 A Yes.

6 Q Well, would you consider what you saw at
7 Mr. Brown's place in New York a continuous production
8 facility?

9 A What do you mean by "continuous production"?

10 Q Well, for example, did you see a process that
11 was at that point in time ready to be commercialized?

12 A He was already running a commercial plant. It
13 wasn't what we were looking for, but he was running a
14 commercial plant. He was selling the product, and
15 presumably he was making a profit.

16 Q Why wasn't it what you were looking for?

17 A Because the mechanical process to make the --
18 make the boards was -- didn't look like it was
19 scalable -- directly scalable to a large commercial
20 plant. It was very labor intensive.

21 Q Meaning in order to make enough wood-type
22 products to be competitive in the marketplace, you had to
23 be able to make a heck of a lot more than his process at
24 that time was capable of making?

25 MR. ROBINSON: Objection. Ambiguous. You used

1 the word "heck" and I'm not sure that that's --

2 BY MR. JULANDER:

3 Q Well, do you understand that question?

4 MR. ROBINSON: As in a clearly defined meaning?

5 THE WITNESS: Would you restate that?

6 BY MR. JULANDER:

7 Q Sure. You were testifying that what you saw at
8 Mr. Brown's plant was not scalable. And I just want to
9 make it more clear on the record what you mean by that.

10 A I think it was too labor intensive to make a
11 large plant making large quantities of his material.

12 Q The process needed to be automated; is that
13 right?

14 A Yes.

15 Q Did you discuss with Mr. Brown what the status
16 of -- I'm sorry, let me withdraw that.

17 Did you discuss with Mr. Brown the status of his
18 technology as it related to that issue of automation?

19 A Yes. Because Mr. Bent, I think, from GoodSmith
20 declined to invest because he said he felt that it wasn't
21 ready for large-scale investment. He felt that it needed
22 to be more automated.

23 Q But did you -- did you -- did you make any sort
24 of a determination or investigation as to what -- what
25 was the status of Mr. Brown's knowledge on the automation

1 issue?

2 A Well, we certainly discussed it with him
3 afterwards, but I don't know at that specific moment what
4 we said. I'm sure we reported back to him what the
5 investor's opinion was at that point, but I don't
6 remember whether he said at that time whether he was
7 investigating automation or not.

8 Q At the plant in New York, was an extruder being
9 used to --

10 A No.

11 Q Not in any way?

12 A Well, it was a large mixer, I believe. But it
13 wasn't an extruder.

14 Q Do you have any recollection as to what type of
15 mixer it was?

16 A I think there's a photograph of it in the
17 business plan, but I don't know the specific type.

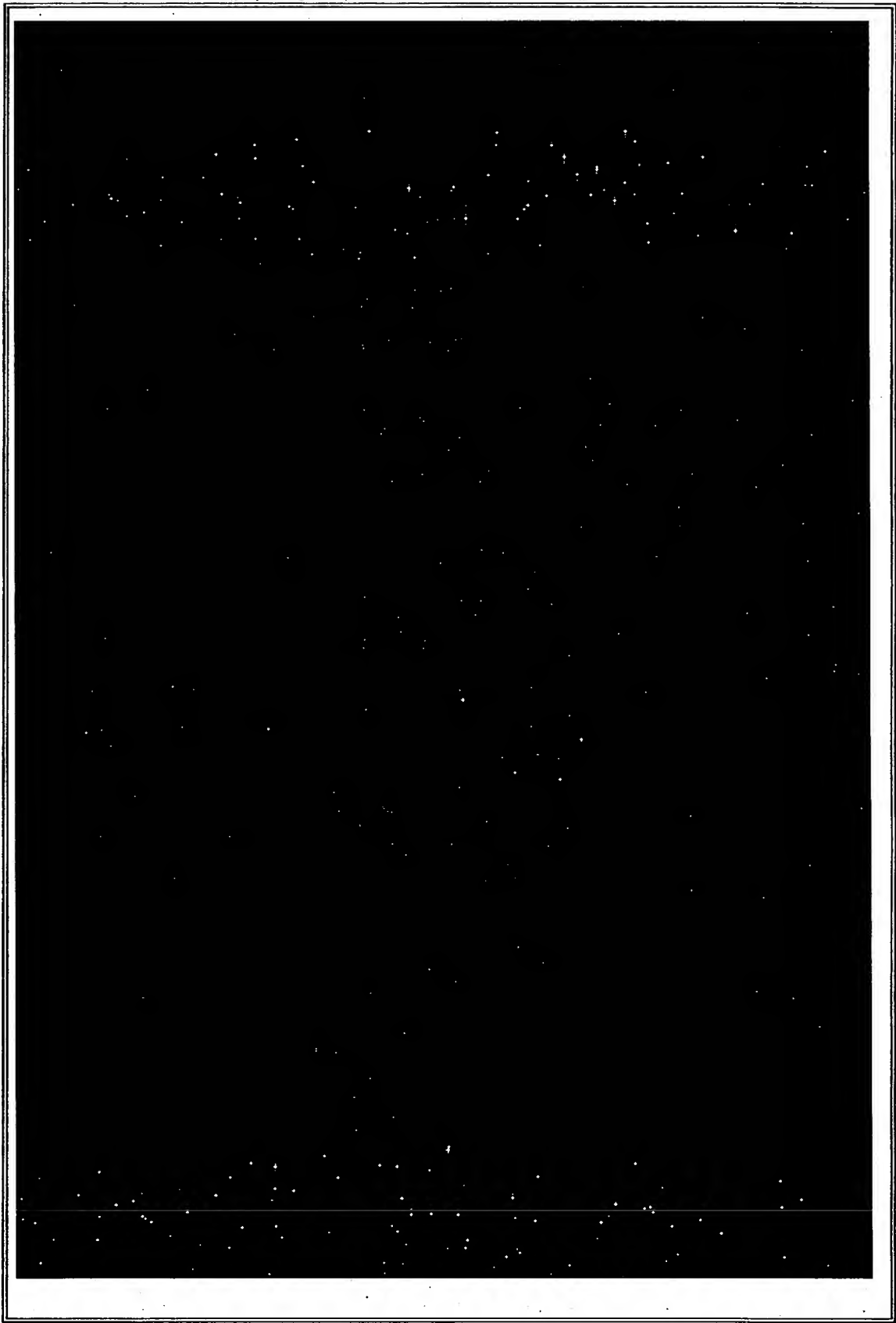
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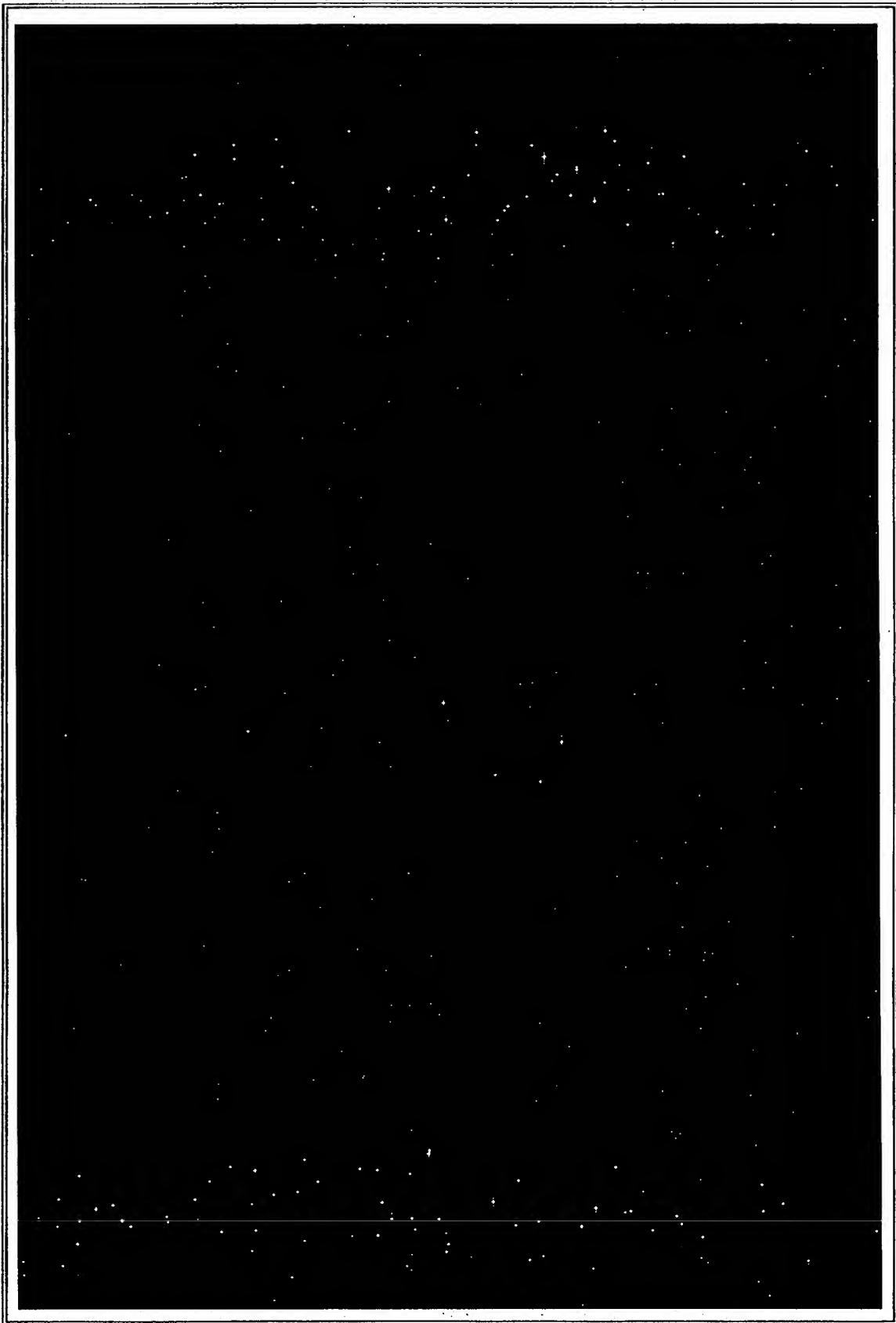
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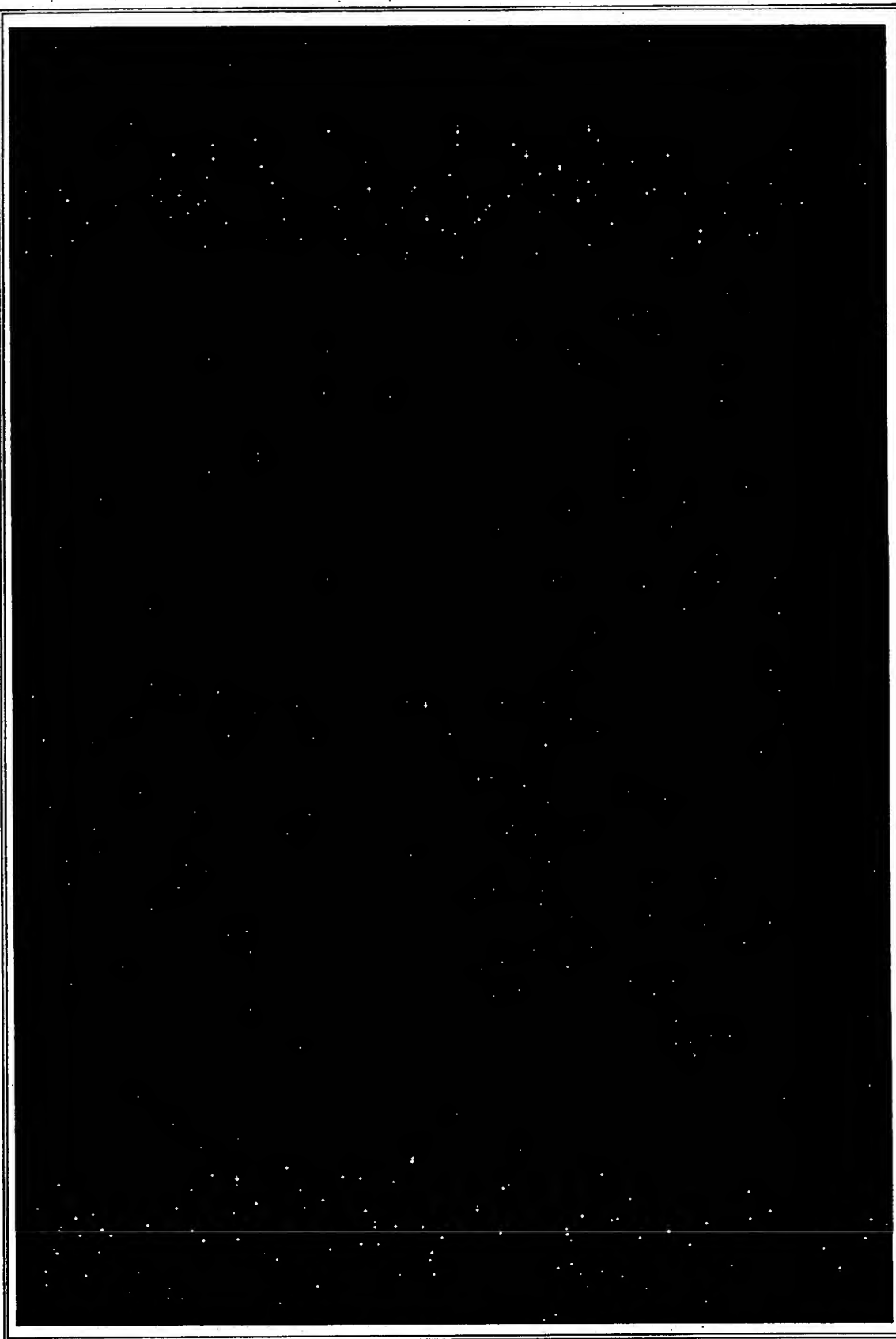
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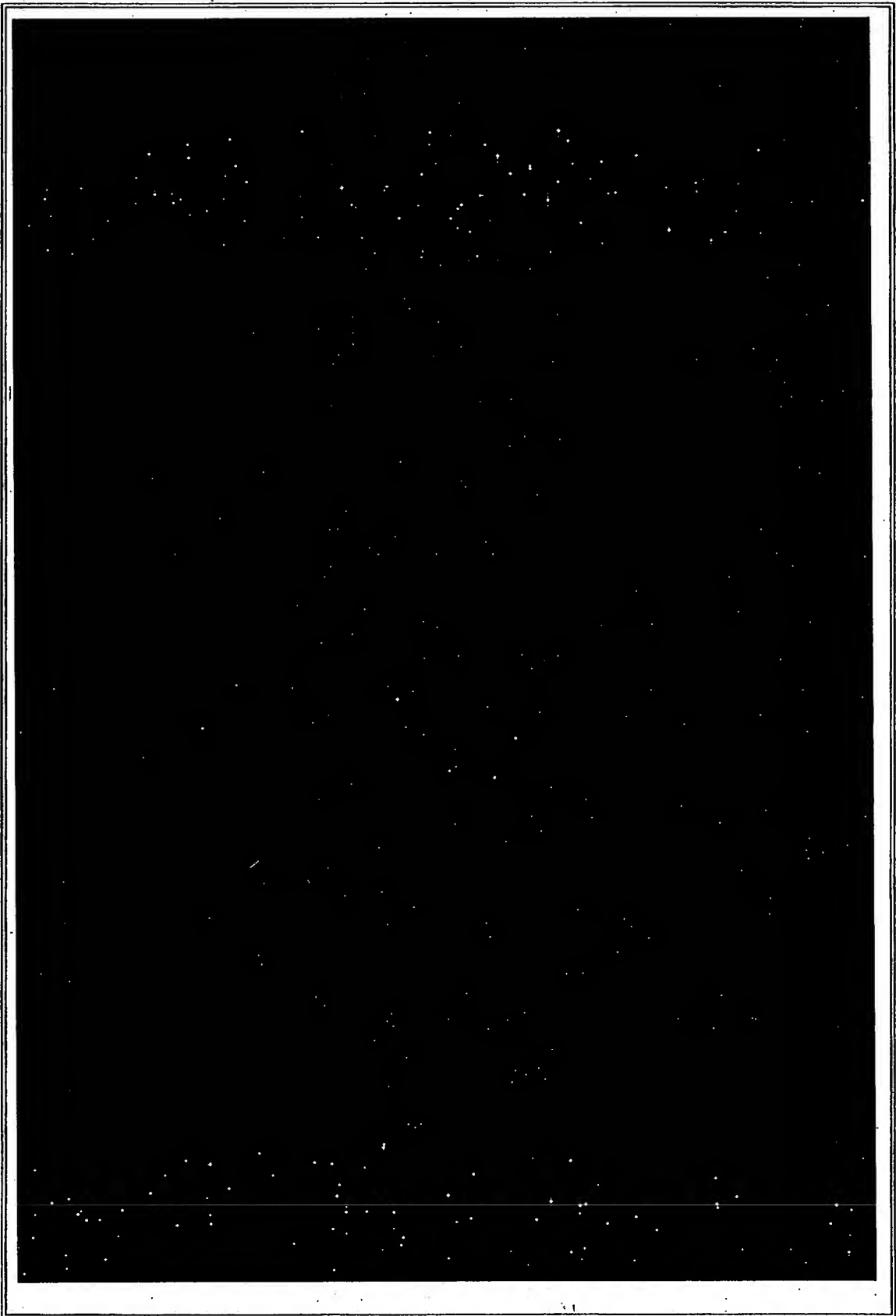
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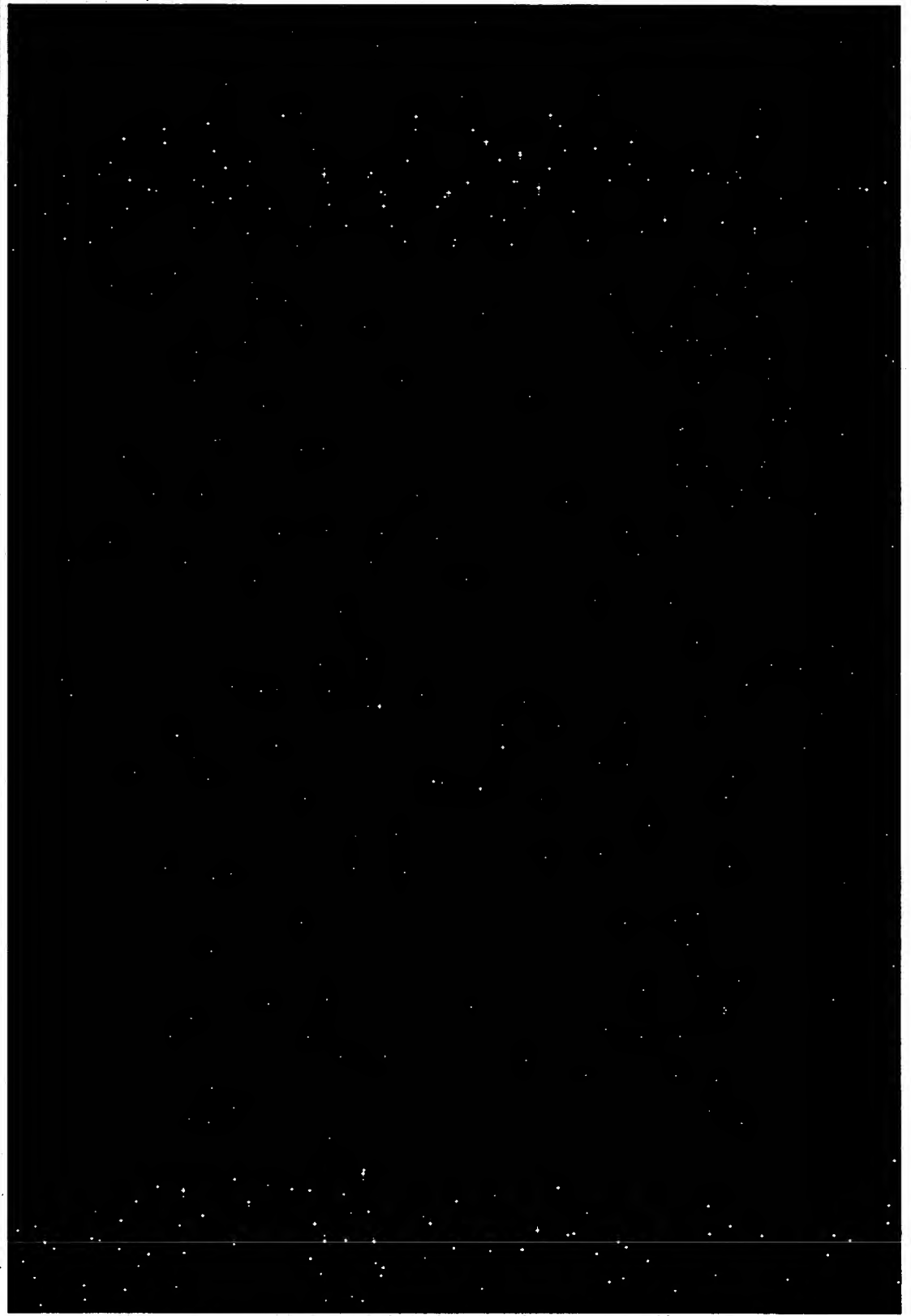
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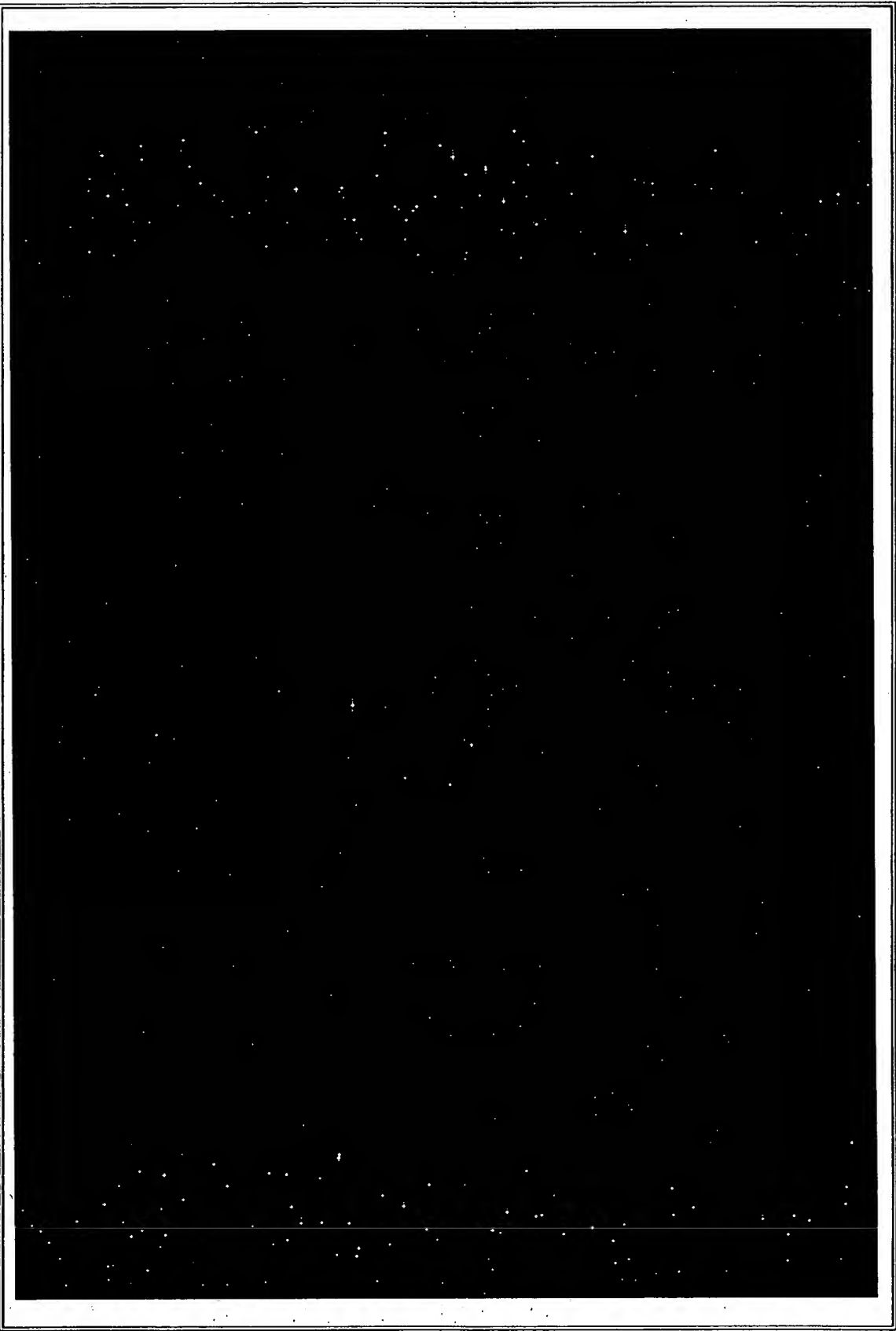
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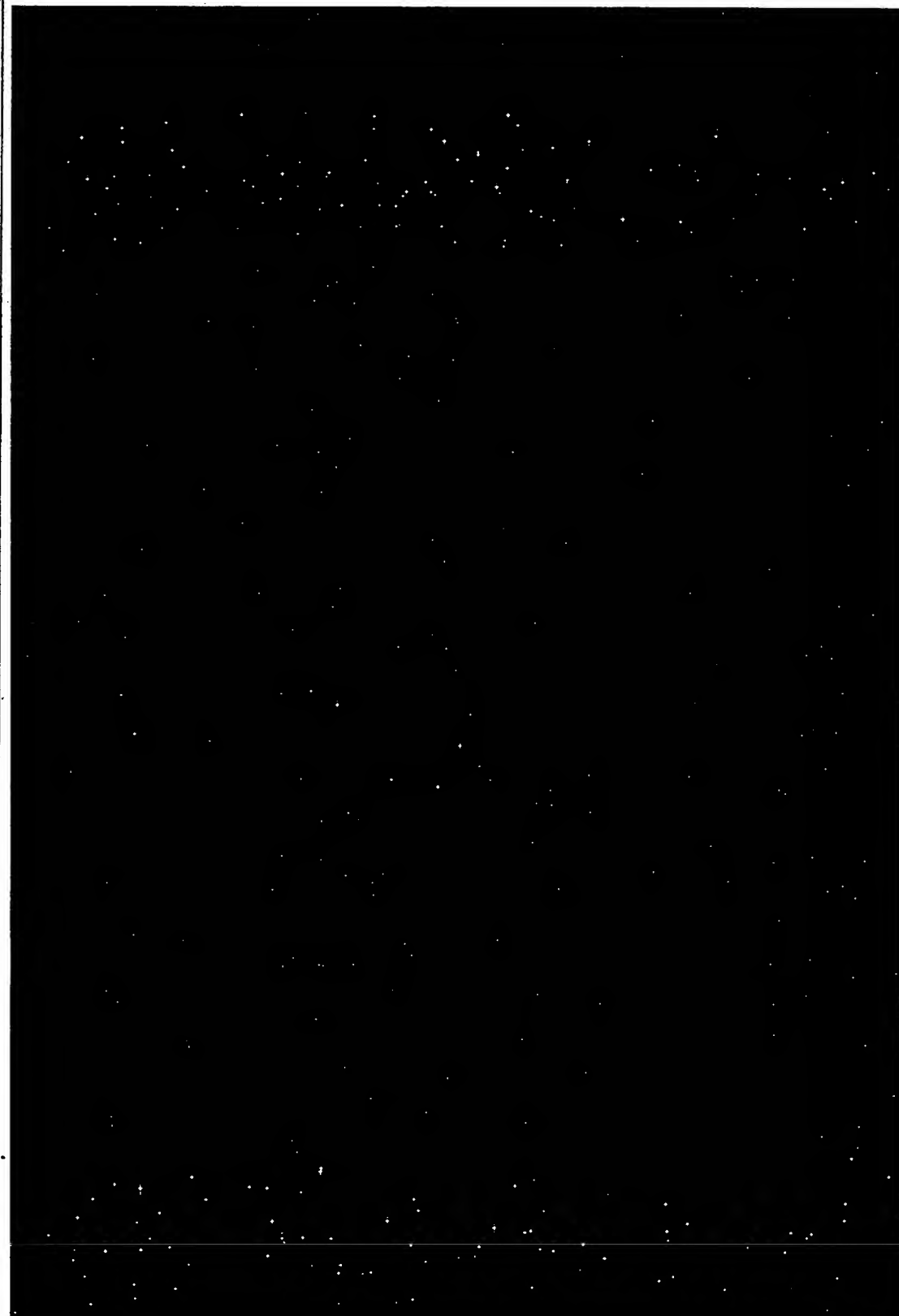
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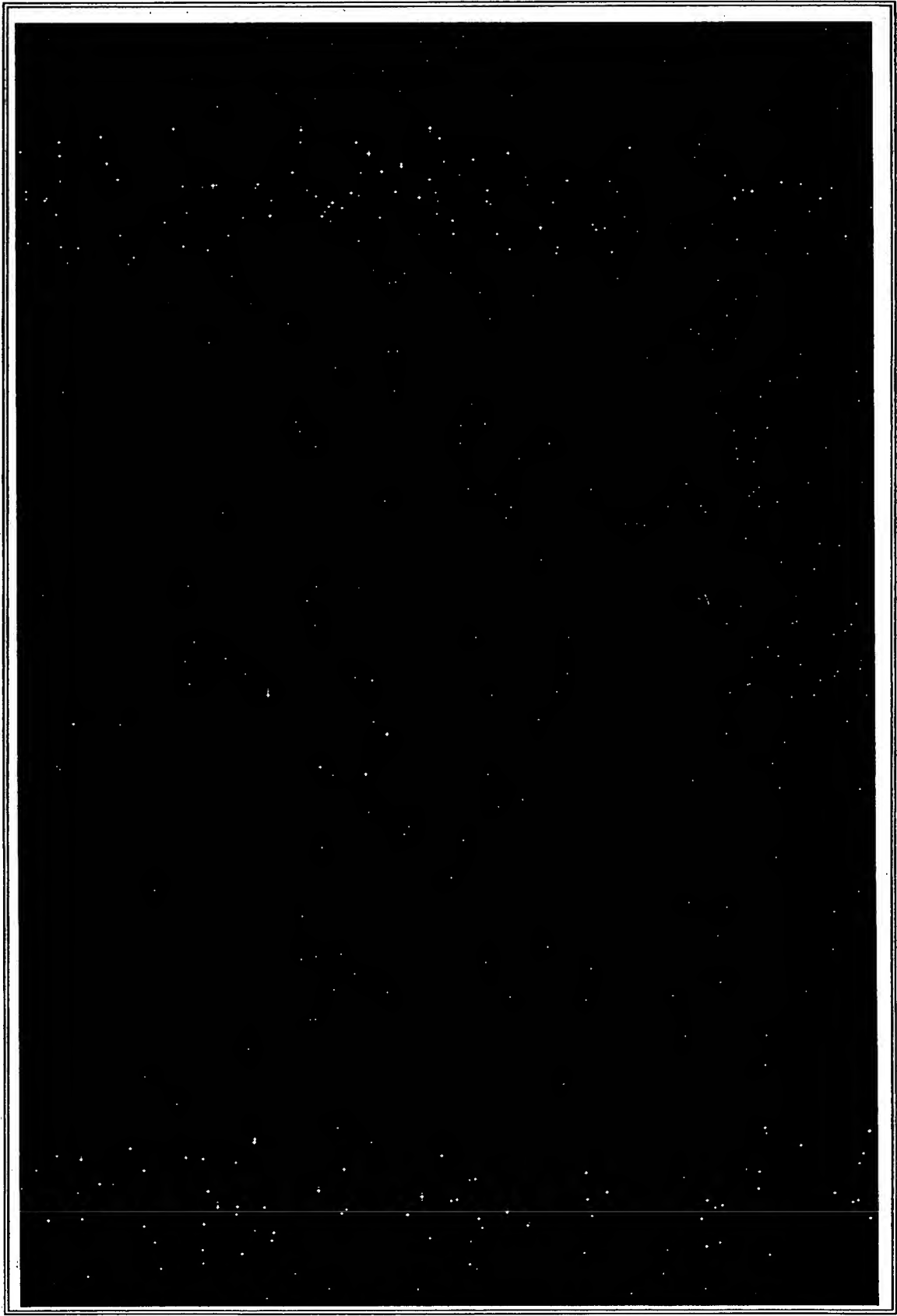
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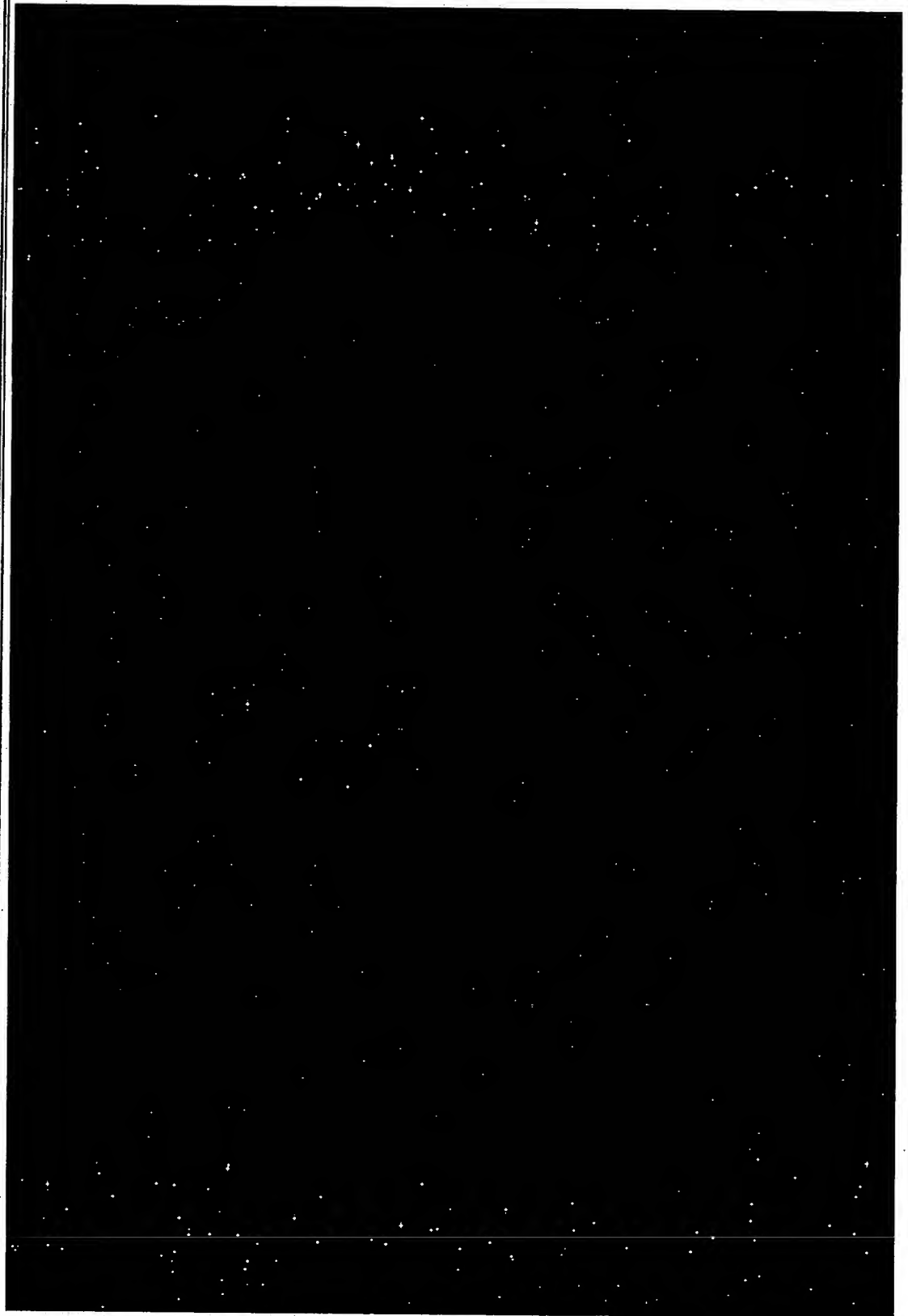
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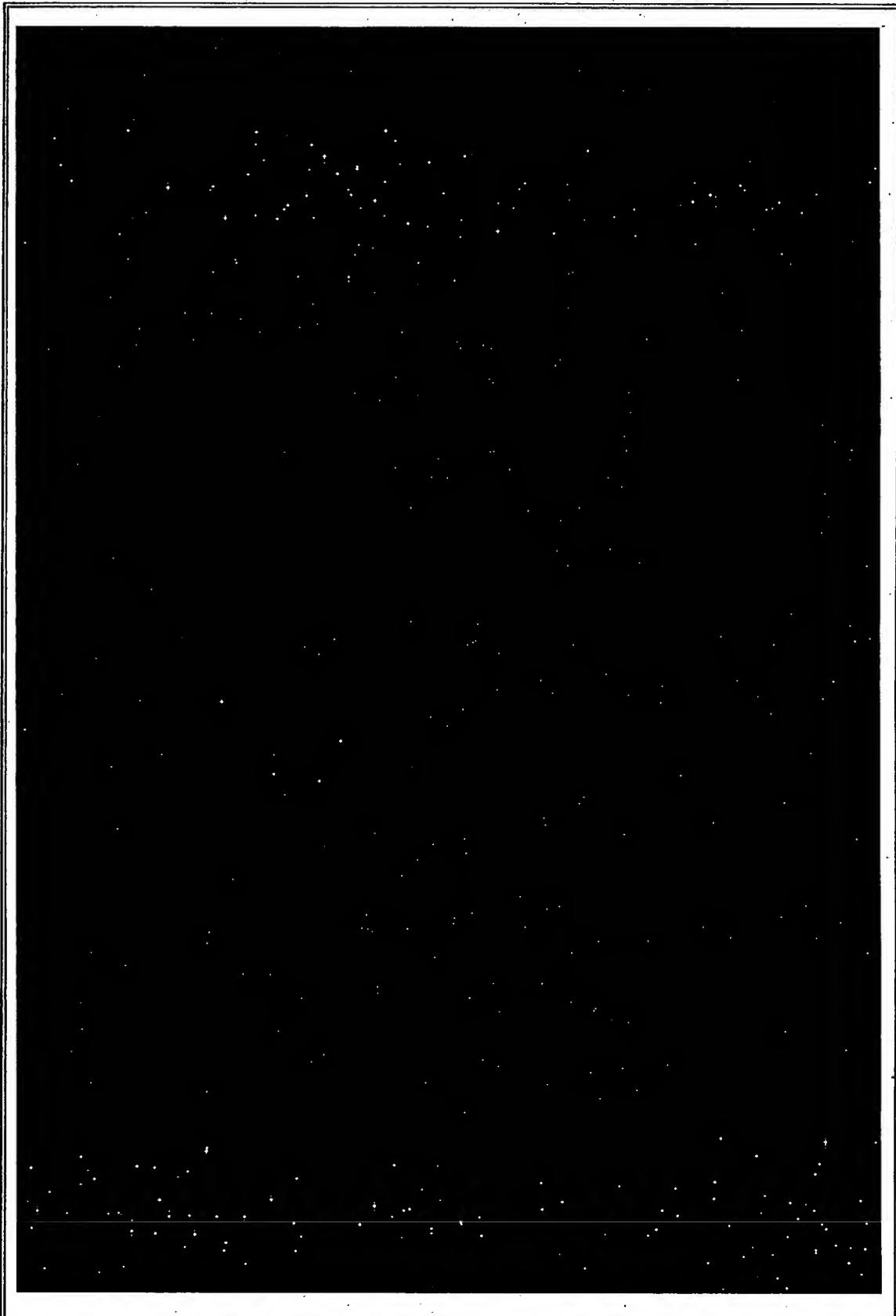
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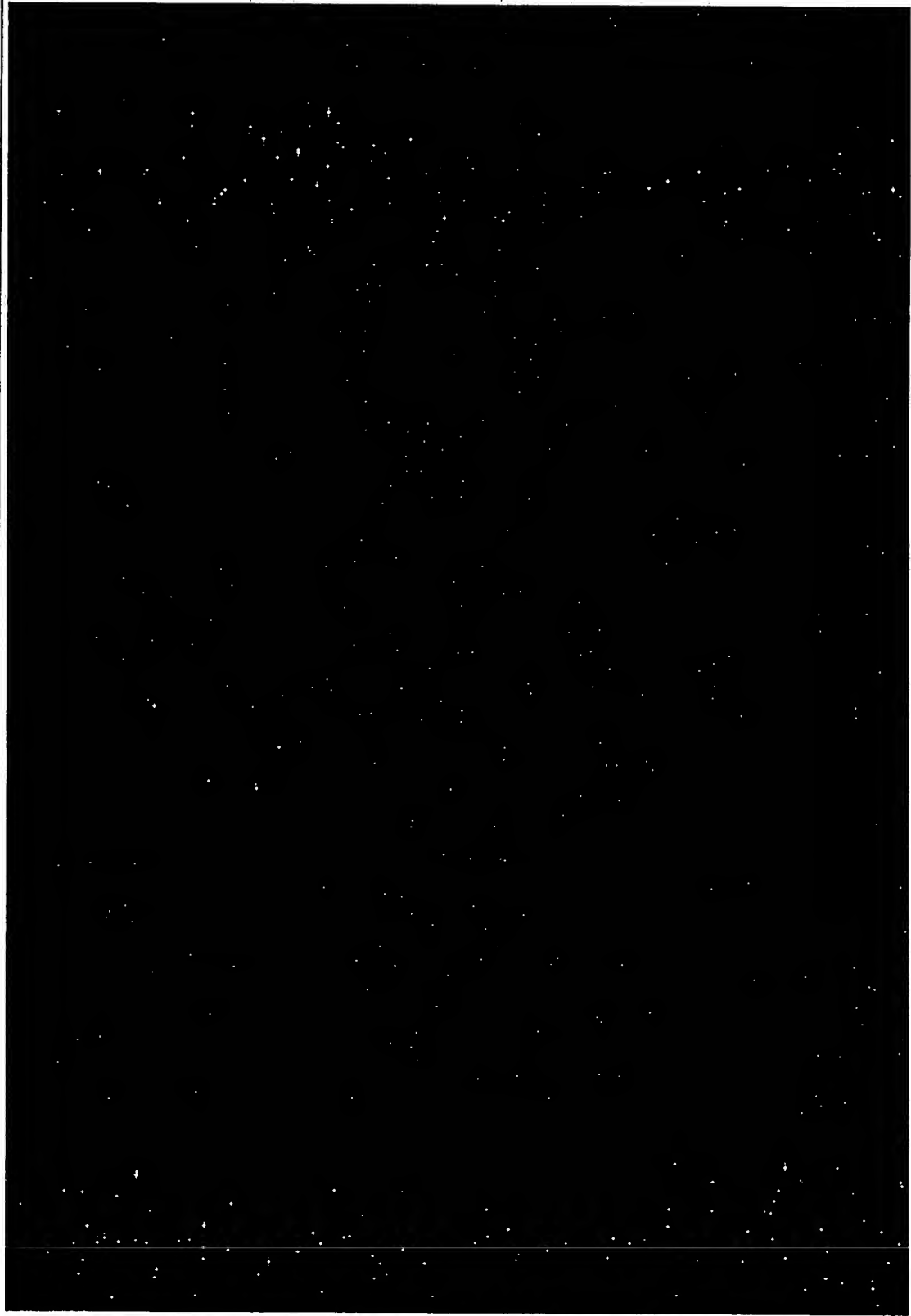
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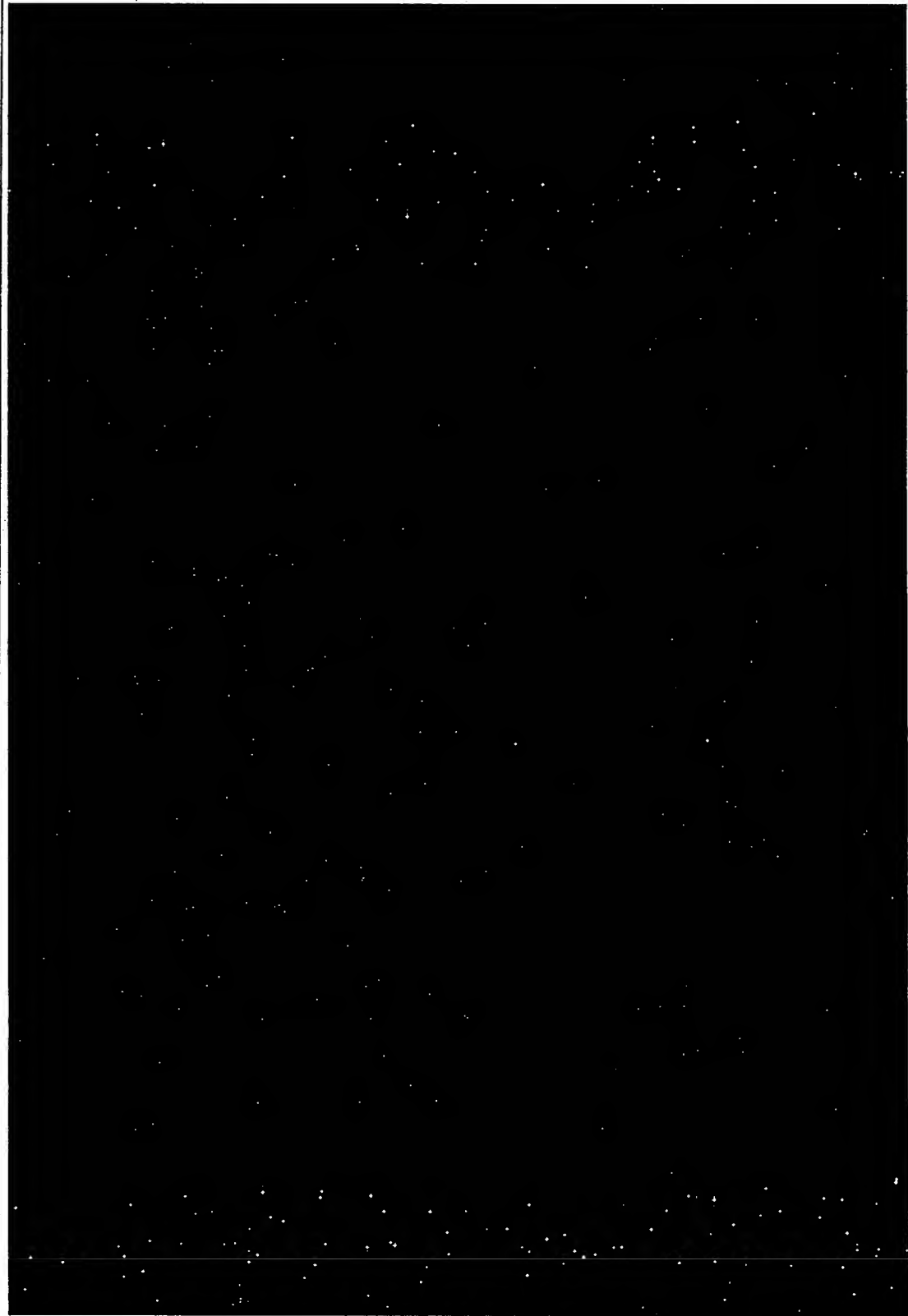
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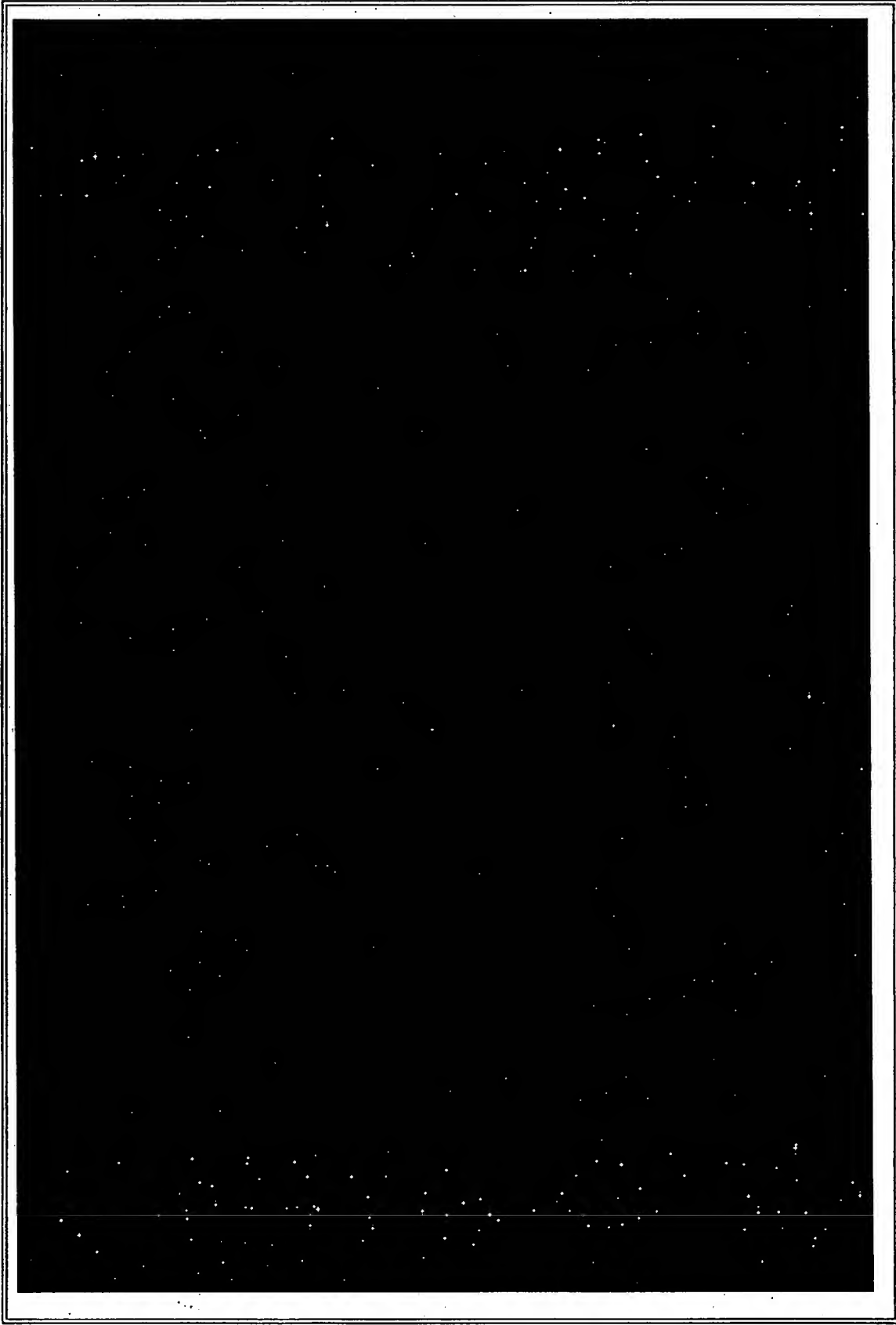
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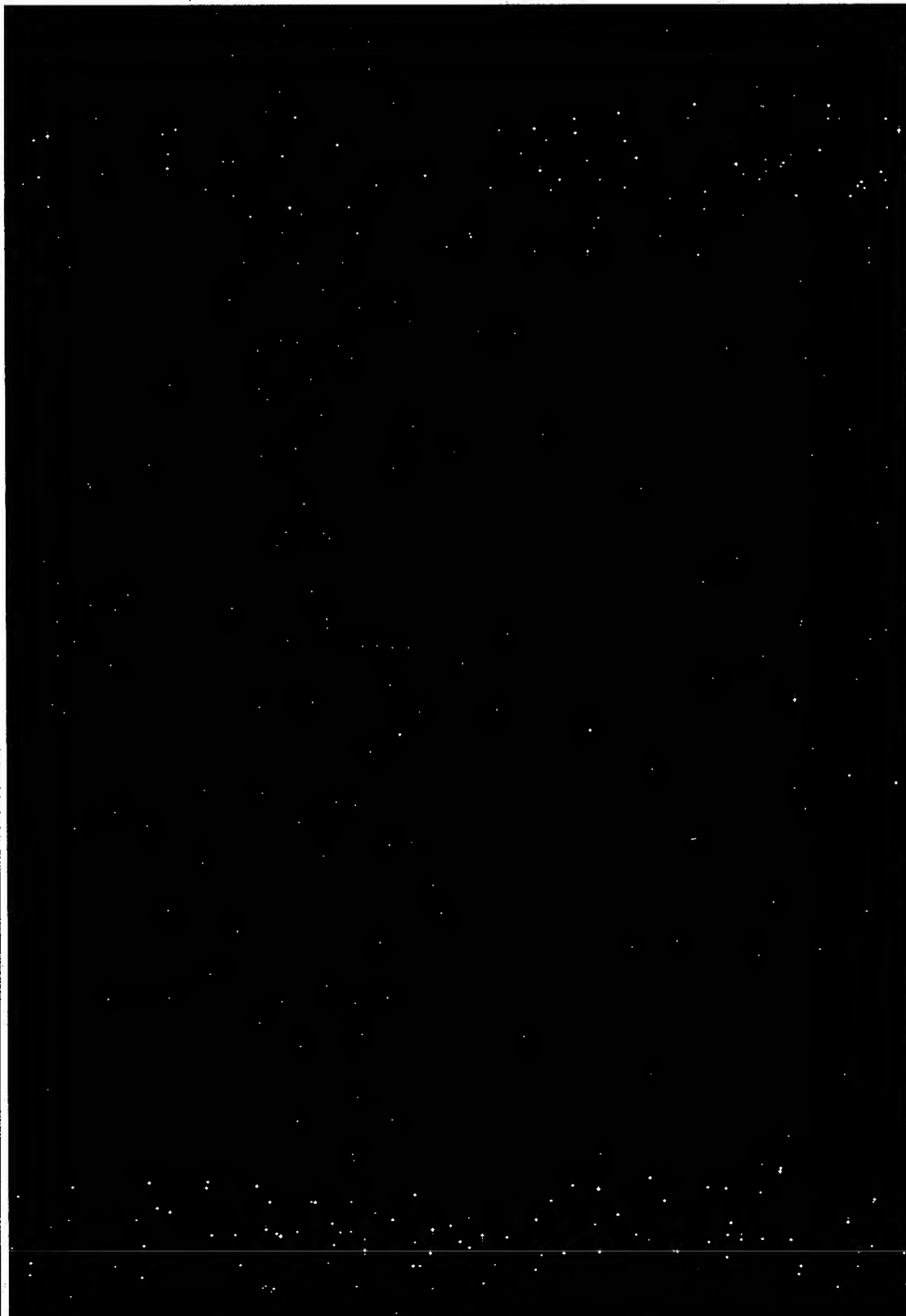
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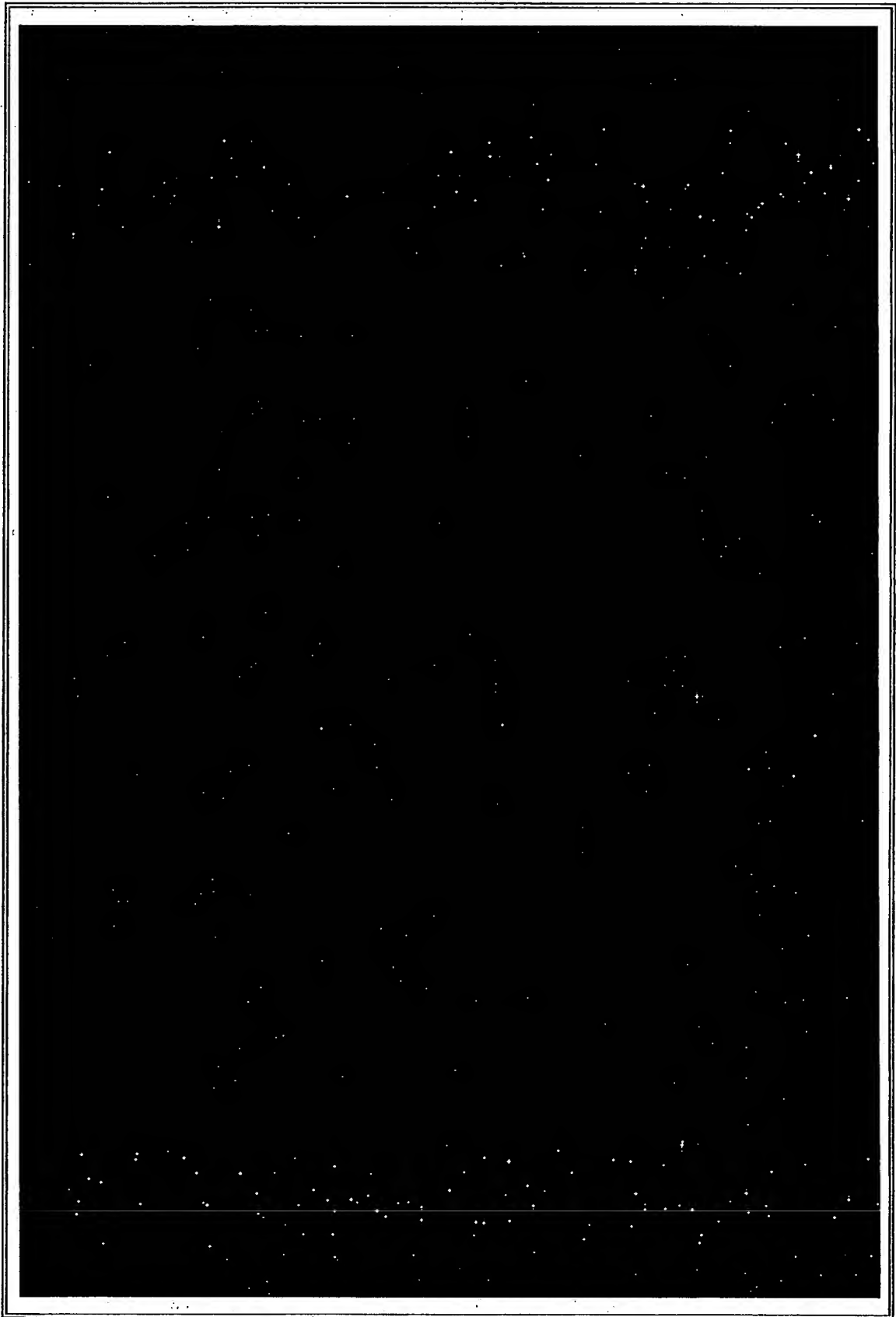
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1 Q Well, that would have been a concern; agreed?

2 A Well, Wade was telling us that this was
3 something totally different and had a -- many attributes
4 that did not exist in the current plastic lumber being
5 sold.

6 Q And that would have been a simple thing to
7 investigate; right?

8 MR. ROBINSON: Objection. Ambiguous.

9 THE WITNESS: I don't know what you mean.

10 BY MR. JULANDER:

11 Q Well, Mr. Brown says the lumber that he is
12 trying to produce -- the plastic lumber that he is trying
13 to produce is unique, there is no other plastic lumber
14 like it; correct?

15 A Right.

16 Q And it would have been a very simple thing to go
17 out in the world to investigate to see if his claim that
18 this plastic lumber that he is making is unique to test
19 that claim; right?

20 MR. ROBINSON: Objection. Compound and
21 ambiguous.

22 BY MR. JULANDER:

23 Q That would have been a simple thing; correct?

24 A There are many companies on the market. I have
25 not found any that make the same lumber as Mr. Brown.

1 Q To date?

2 A To date.

3 Q So we can agree there was nothing misleading or

4 inaccurate about his statements relating to the

5 uniqueness of this product?

6 MR. ROBINSON: Objection. Compound, ambiguous.

7 THE WITNESS: I don't know how to answer that.

8 BY MR. JULANDER:

9 Q With a "yes" or a "no." Do you need the

10 question read back?

11 A Yes.

12 MR. JULANDER: Would you, please?

13 (Record read.)

14 THE WITNESS: I don't agree.

15 BY MR. JULANDER:

16 Q In what respect?

17 A Because I think that several of the things that

18 Wade told us about his product were not correct.

19 Q Why is that?

20 A It fades. It scratches badly. The way that he

21 made it, it wasn't strong enough. It didn't have enough

22 impact resistance. It broke when you dropped it.

23 Q Anything else?

24 A The main things.

25 Q Let's be clear. I want to go back to 19 -- or

1 2001. You're signing an agreement. You're paying
2 \$30,000 for an option for a license agreement; okay? You
3 with me?

4 A Uh-huh.

5 Q "Yes"? Is that a "yes"?

6 A Yes.

7 Q And Mr. Brown was telling you that his product
8 was unique to all of the plastic lumbars on the market?

9 A Yes.

10 Q And you had an opportunity to go out and
11 investigate. And you're telling me that even today you
12 have not found any other product that is in a similar
13 vein as his product?

14 A Correct.

15 Q And Mr. Brown made certain representations about
16 the characteristics of his product?

17 A Yes.

18 Q And you actually had the product in hand; true?

19 A Yes -- well, no, we didn't have it in hand.

20 Q Really? You didn't ever touch a piece of board
21 with Brown -- hang on, let me finish my question,
22 Mr. Butteriss. I apologize.

23 Prior to October 18, 2001, let's say, did you
24 ever hold in your hands a board that was produced by
25 Mr. Brown?

1 A Yes, at his plant.

2 Q And that board that you held in your hand was
3 made through the processes Mr. Brown was telling you
4 about was unique and had those certain characteristics;
5 true?

6 A I assume so.

7 Q And in fact, Mr. Brown represented to you that
8 the product had been tested; right?

9 A Yes.

10 Q And found meritorious in every respect; right?

11 A Yes.

12 Q Now, the product that you had held in your hand
13 from Mr. Brown's plant in New York -- did it fade?

14 A At the time, we didn't know. We assumed that he
15 was correct.

16 Q Okay. Did he represent to you that it had
17 tested for fading and found meritorious?

18 A Yes.

19 Q Do you have any information, any information at
20 all today, as you sit here today in this chair that that
21 representation that he made to you about his product that
22 you held in your hand from his plant in New York did
23 anything other than he represented in terms of fading?

24 A Yes. I have a piece of his product that has
25 faded.

1 Q From New York?

2 A Yes.

3 Q And where is that product?

4 A It's in my desk.

5 Q Have you produced that to Mr. Robinson?

6 A Not yet.

7 Q Would you, please?

8 A I will.

9 Q What have the conditions been of the product

10 that has been -- where has it been?

11 A In my desk.

12 Q The entire time?

13 A Yes.

14 Q You've never taken it out of your desk?

15 A To look at it and put it back.

16 Q For how many years?

17 A I think it's something that Wade brought with

18 him when he came to Anaheim.

19 MR. JULANDER: And Counsel, will you produce

20 that for inspection?

21 MR. ROBINSON: Yeah. I don't have it, but we'll

22 produce it.

23 MR. JULANDER: Once you receive it?

24 MR. ROBINSON: Once I receive it.

25 MR. JULANDER: Thank you.

1 BY MR. JULANDER:

2 Q This sample that you have in your desk, does it
3 scratch?

4 A Yes.

5 Q Have you tested it for scratching?

6 A Yes.

7 Q In what way?

8 A With a piece of metal, the way we do every --
9 all of our products.

10 Q Have you submitted that sample that's in your
11 desk to any formal testing?

12 A No.

13 Q And the sample that you have, is it -- have you
14 tested it for strength?

15 A No.

16 Q And have you tested it for impact resistance?

17 A No.

18 Q Are you aware of any information, any formal
19 testing, that the products that Mr. Brown produced in the
20 New York plant had -- that were, as you put it, not
21 strong enough?

22 A No.

23 Q Are you aware of any information as to the
24 products produced at the New York plant -- that they did
25 not have sufficient impact resistance?

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A No.

Q Were you given -- once you had signed a confidentiality agreement with Ecomat or with Mr. Brown's companies, were you given full access to his system?

A No.

Q In what respect were you restricted?

A Do you mean the -- which system?

Q The system that Mr. Brown was working with in New York.

A We did not go back to New York.

Q I'm not asking you that. I'm asking if you were given access to the system that Mr. Brown was using in New York.

A I don't know because I don't think we ever asked.

Q Were you given access to the formulations that Mr. Brown was using in New York?

A No.

Q Never?

A Never.

Q Was anyone associated with Century Products given access to the formulations?

A No.

Q Why do you say that? You're pretty confident. Why is that?

1 A Because Wade always kept it very close to his
2 chest. He didn't tell us what he was doing. He even had
3 fictitious names for all of the components he was using.

4 Q Is it your testimony that as you sit here today,
5 Century Products has not had some aspect of Mr. Brown's
6 or Century-Board's formulation for the manufacturing of
7 plastic lumber?

8 MR. ROBINSON: Objection. Compound, ambiguous.

9 THE WITNESS: Are you talking about formally
10 transmitted?

11 MR. JULANDER: Would you read the question back,
12 please.

13 (Record read.)

14 THE WITNESS: Where?

15 BY MR. JULANDER:

16 Q Anywhere.

17 A In Anaheim, obviously. We --

18 Q I'm sorry. In Anaheim what?

19 A In Anaheim, we have information that we picked
20 up over the period of time, yes.

21 Q Was there any aspect of the formulations that
22 Mr. Brown was using in Anaheim that you did not receive
23 information on?

24 MR. ROBINSON: Objection -- same. Compound and
25 vague and ambiguous.

1 THE WITNESS: Yes. I don't -- I don't know.

2 BY MR. JULANDER:

3 Q That's probably a fair answer.

4 Do you have a belief or an understanding that
5 Mr. Brown has withheld any aspect of his -- of the
6 Century-Board formulation from Century Products?

7 MR. ROBINSON: Same objection. It's compound
8 and vague and ambiguous --

9 THE WITNESS: Again, I don't know.

10 MR. ROBINSON: Give me a chance -- before you
11 respond, give me a chance to get my objection on the
12 record, please, because we're talking over each other.

13 BY MR. JULANDER:

14 Q What I was asking for, Mr. Butteriss, is a
15 belief. Is there anything that has happened that has
16 made you believe that Mr. Brown has withheld some aspect
17 of his formulation from Century Products?

18 MR. ROBINSON: Same objections.

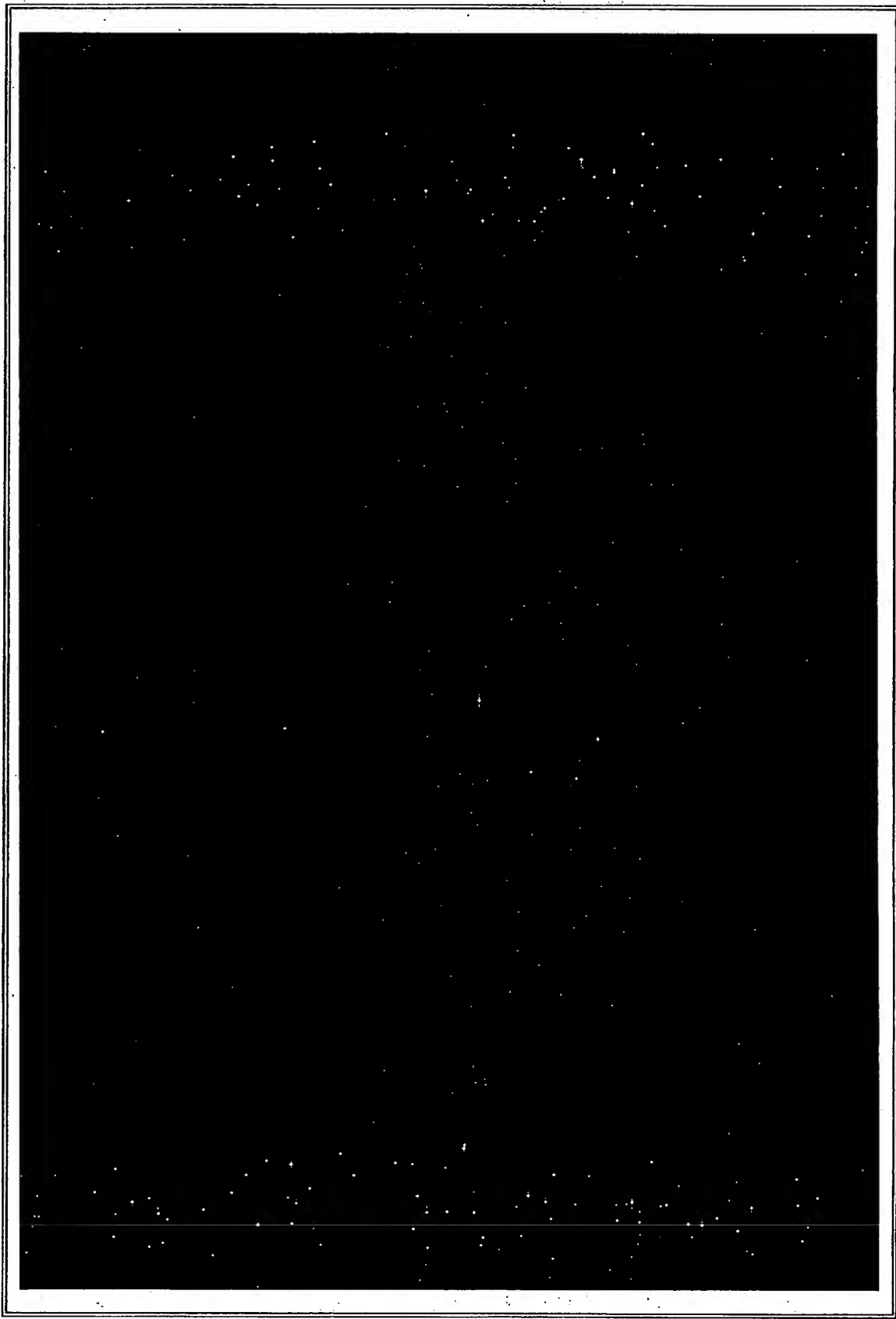
19 THE WITNESS: I don't think anything was
20 specifically transmitted. It was what we know was
21 transmitted by -- I don't want to say "absorption";
22 what's going on around you and noticing things.

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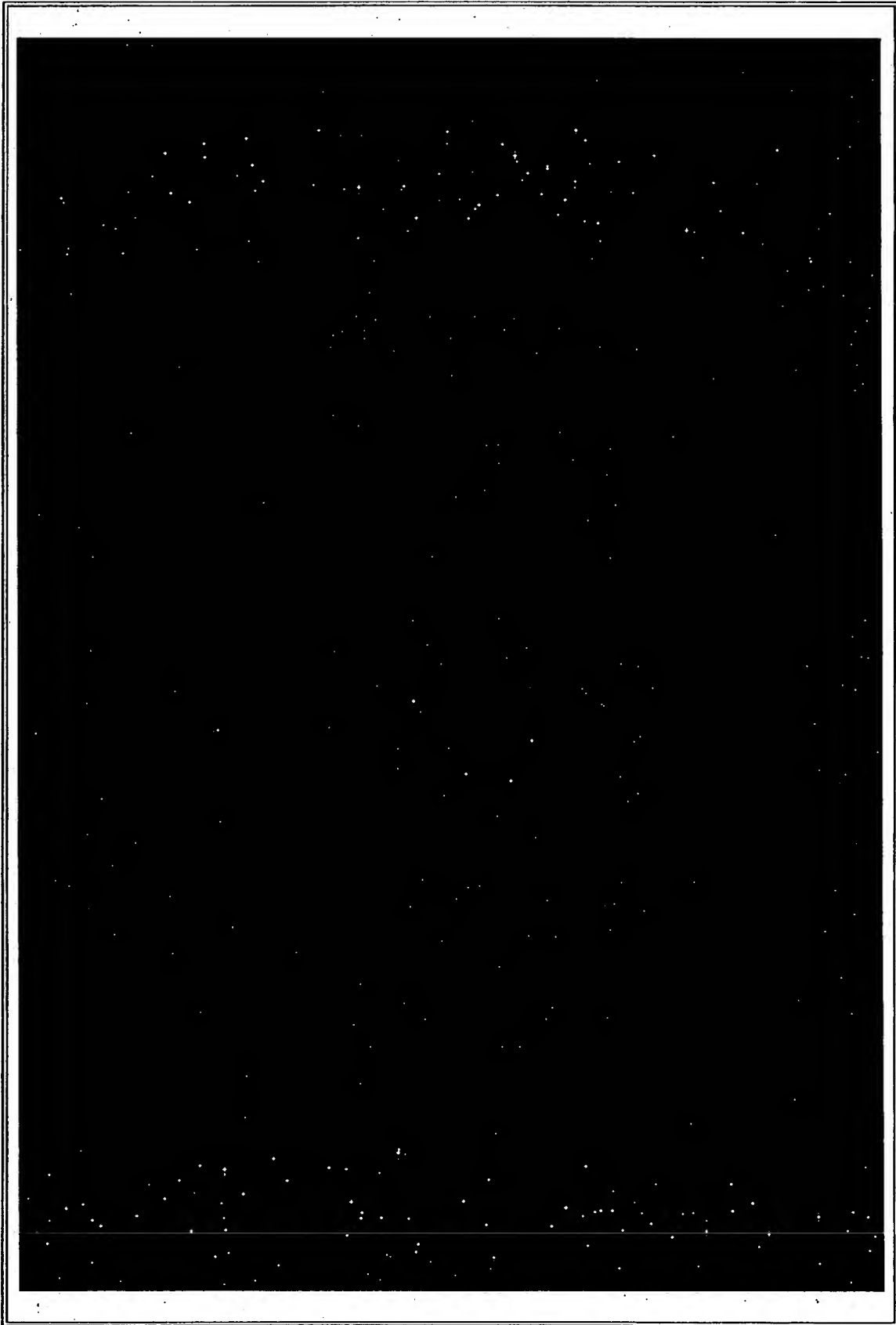
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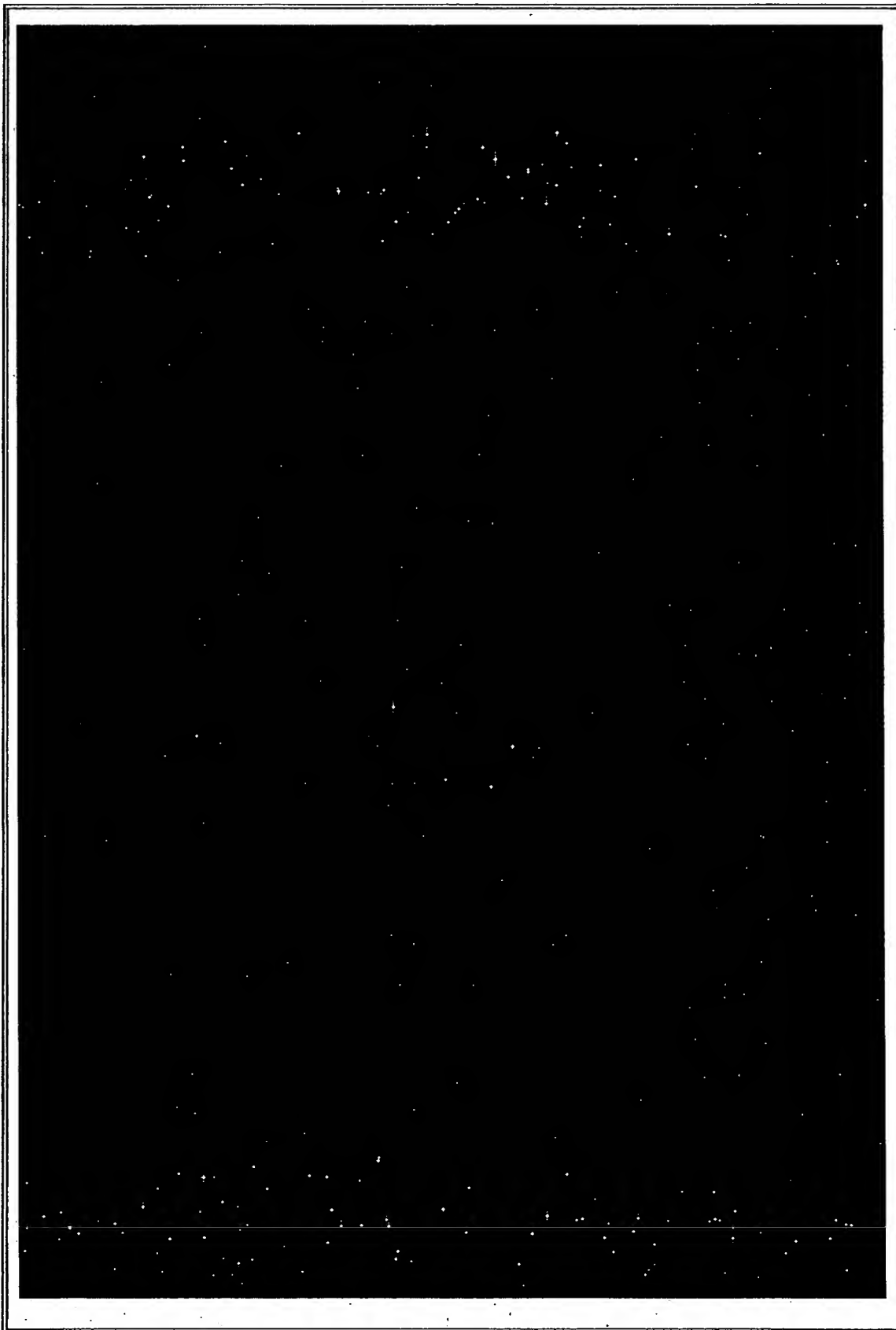
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Q Okay. Up to March 18th, 2002, had you done any further investigation into the technology or the claims that Mr. Brown was making in connection with the product that he was trying to commercialize?

A I -- I really don't remember.

Q Who was it in Century Products that was responsible for doing the due diligence, if you will, and the representations it was making to prospective investors?

A I suppose we all were. I don't -- I don't remember anybody being specifically charged with that.

Q Well -- so there wasn't a formal understanding that any particular person would be doing the due diligence, is what you're saying; right?

A Uh-huh, yes.

Q Was there a formal understanding -- was there a formal understanding that you would all be doing due diligence?

1 A No.

2 Q So there was really no understanding that any
3 particular person at all would be doing any due diligence
4 in Century Products relating to the technology it was
5 seeking to obtain investment funds for?

6 MR. ROBINSON: Objection. Ambiguous.

7 THE WITNESS: Yeah. I -- there was no one
8 specifically charged with doing due diligence on the
9 technology. We had accepted the materials from Wade. We
10 had Ince Scott's previous materials. We had materials
11 from Century-Board West. And that was probably it.

12 BY MR. JULANDER:

13 Q What did Julia Ince Scott give you in terms of
14 materials related to the technology?

15 A I think -- I know we met with them, and they
16 discussed it. I don't remember specific written
17 materials.

18 Q You received a copy of Mr. Brown's business
19 plan --

20 A Yes.

21 Q -- and marketing materials relating to the
22 technology?

23 A Yes.

24 Q There's an awful lot of sources of information
25 in there, people that had been dealing directly with

1 Mr. Brown in the development of his technology; correct?

2 A Uh-huh, yes.

3 Q Did you or anyone, to your knowledge, ever go
4 and investigate the accuracy of the statements that were
5 made in these marketing materials?

6 A We called people on his list, yes.

7 Q And what did you find?

8 A They were generally satisfied. In fact, I
9 remember one guy said he wished he could get more
10 material.

11 Q Was it that type of investigation that continued
12 to move you forward on this technology?

13 A Yes. And at the time, Mr. Brown had made some
14 cross arms for a company here in Southern California, and
15 we called them up and spoke to them, got feedback from
16 them. They were happy with the product.

17 Q Do you remember anybody else that you called to
18 find out how they were doing with the products Mr. Brown
19 had sold in the past?

20 A I don't remember names.

21 Q Well, I'm not asking for names. Just like you
22 said, a company in Southern California?

23 A I called a company in New York, and I believe
24 there was someone in the municipal system in New York
25 that Wade gave us to call. I don't remember the name.

1 Generally, we got the impression customers were happy.

2 Q And by this time now -- this is in 2002 -- did
3 you understand that the object, what was now trying to be
4 done -- actually, let me withdraw that question.

5 I need to take a break. In fact, we could take
6 a lunch break.

7 MR. ROBINSON: Let's do it now.

8 MR. JULANDER: Let's do it now.

9 (Lunch recess.)

10 MR. JULANDER: We're back on the record.

11 BY MR. JULANDER:

12 Q By the March 2002 time frame, did you understand
13 by this time, Mr. Butteriss, that what you were trying to
14 accomplish was to take a process that you had seen
15 working in New York on one level, and it was just -- it
16 was changing not the formula but the process? Did you
17 understand that's what was happening?

18 A Yes.

19 Q And what was your understanding, if you can
20 segregate it out, by March of 2002, in other words, as
21 you were beginning to approach Ameren, as to what the --
22 what the new commercialized process was going to be?

23 A Uh-huh.

24 Q What was your understanding?

25 A My understanding was that Wade had got a new

1 process working that could make continuous material
2 without having to cast it in boxes.

3 Q And my question is, what was your understanding
4 of what that process entailed?

5 A 2002? I mean --

6 Q In other words, the beginning of your
7 understanding. I mean, obviously after that point, you
8 went on to assist in building Century Products and all
9 the equipment that is out there, but I'm trying to get to
10 an understanding of before you started working there in
11 Century Products -- let me give you an example, make it
12 easier --

13 MR. ROBINSON: A little vague and ambiguous.

14 BY MR. JULANDER:

15 Q For example, did you understand by now that the
16 process was going to entail extrusion?

17 A Yes -- well, an extruder.

18 Q An extruder. That's a good point; extrusion
19 being a type of a process that an extruder can do; okay?
20 So that the process would encompass the use of an
21 extruder?

22 A Yes.

23 Q And did you understand also that the process
24 would encompass some sort of a forming machine for the
25 lumber? Correct?

1 A Yes.

2 Q Just as generally as possible?

3 A Yes, yes.

4 Q That the forming machine would have two
5 opposable continuous rubber belts?

6 A I don't think I knew that in March.

7 Q That's something you learned later?

8 A Yes.

9 Q Okay. What was your understanding of what the
10 forming machine would entail as of March 2002?

11 A I don't remember.

12 Q By this time, had you been made aware of the
13 testing that Mr. Brown had done at various extruding
14 facilities?

15 A I can't put a date on it, but I know I knew that
16 he was testing extruding facilities, yes. And at some
17 point, he told us that the results were excellent and
18 were better than what he made in Poughkeepsie.

19 Q Do you have any information whatsoever that the
20 information that Mr. Brown gave you regarding the test
21 results of the extrusion of his formula were anything
22 other than what he told you they were?

23 A Do I? No.

24 Q I'm going to hand you the next document that I'm
25 going to mark as Exhibit 5. For the record, Exhibit 5 is

1 a Consulting Services Agreement dated April 2, 2002
2 between Century Products and Wade Brown.

3 A Uh-huh, yes.

4 (Exhibit No. 5 marked for identification.)

5 BY MR. JULANDER:

6 Q This agreement appears to be signed by
7 Mr. Skidmore. Can you verify that that's his signature?

8 A Yes.

9 Q Do you have a recollection as to what led to the
10 creation of this agreement?

11 A I don't remember the immediate forerunner of
12 this. What date was -- April 2002. I think it was just
13 a natural progression from signing the commercial
14 sublicense -- the option agreement, sorry, now to needing
15 his assistance in taking the project further.

16 Q Can we agree that prior to April 2002, Century
17 Products had done nothing in terms of moving forward or
18 working on the actual technology that Mr. Brown was
19 bringing from Century-Board?

20 A I'd say that was correct.

21 Q And do you have an understanding that under this
22 consulting services agreement, as to intellectual
23 property rights for any developments that would occur
24 after April of 2002 but before November of 2002, when the
25 sublicense agreement was executed?

1 A I don't remember anything specific.

2 Q Nothing -- certainly nothing other than what's
3 actually in this document?

4 A No.

5 Q Do you have a recollection as to what -- well,
6 actually, let me lay a further foundational question.
7 According to this consulting service agreement, Mr. Brown
8 was now going to be working for -- as a consultant for
9 Century Products; correct?

10 A Yes.

11 Q What was it exactly that you understood
12 Mr. Brown was supposed to be doing under this agreement?

13 A I would say helping us to put together the
14 business plans and other documents required to get
15 Century Products financed and be able to manufacture his
16 particular product.

17 Q And is that what Mr. Brown actually did?

18 A He did help us with the business plans, sure.

19 Q Was Mr. Brown doing anything else on behalf of
20 Century Products from April 2, 2002 until
21 November 26, 2002?

22 A We started putting the equipment together. We
23 negotiated an agreement with Coperion to purchase an
24 extruder. And I know we met with Zack Taylor talking
25 about process.

1 Q Is there anything else you can recall that
2 Mr. Brown was actually doing between April 2, 2002 up to
3 the point when Ameren signed the agreements in November
4 of 2002?

5 A Not specifically.

6 Q Are you aware of any -- are you aware of any
7 improvement or change in the Century-Board process that
8 was implemented by Mr. Brown between those same dates of
9 April 2002 to November 2002?

10 A No.

11 Q Would you agree, then, that on
12 November 26th, 2002, when the sublicense agreement was
13 executed, essentially Mr. Brown, on behalf of
14 Century-Board, was bringing to the table the exact same
15 formula, whatever it was, that he had back in April 2 of
16 2002?

17 MR. ROBINSON: Objection. Calls for speculation
18 and vague and ambiguous.

19 THE WITNESS: I'd have to say -- sorry. I don't
20 know.

21 BY MR. JULANDER:

22 Q You're not aware of anything -- any changes or
23 anything that was developed by Mr. Brown or anyone else
24 at Century Products during that period of time, though;
25 true?

1 A True.

2 Q The negotiations with Ameren as a prospective
3 investor, I'll represent for you I believe began before
4 April of 2 2002. But there was a meeting that we've seen
5 on May 1, 2002. Do you remember that, generally with
6 Ameren?

7 A Yeah. I don't know the specific date.

8 Q But you do recall that a presentation was
9 made --

10 A We made a presentation during that --

11 Q And I'm assuming, then, from May going forward
12 and culminating in November, negotiations were had with
13 Ameren to participate as an investor?

14 A Yes.

15 Q Who was your primary contact on behalf of
16 Century Products in those negotiations?

17 A I would say John Taylor.

18 Q Did you have direct contact with Ameren during
19 the period from, say, May 2002 to November 2002, other
20 than group meetings?

21 A I'm sure I took place -- I had telephone calls
22 with people, but I don't specifically remember them.

23 Q Do you recall that Ameren, in making its
24 decision whether or not to invest in Century Products,
25 retained a firm, McKinsey --

1 A Yes.

2 Q -- a firm called McKinsey? And did any person,
3 to your knowledge, at Century Products, other than
4 Mr. Brown and people associated directly with
5 Century-Board, transfer any information to McKinsey
6 relating in any way to the technology that Ameren was
7 being asked to invest in?

8 A Not that I'm aware of.

9 Q Were you aware that McKinsey was communicating
10 with Mr. Brown regarding the nature of the technology?

11 A Yes.

12 Q And also communicating with Mr. Taylor regarding
13 the nature of the technology?

14 A I don't know what they communicated with
15 Mr. Taylor versus technology. I mean, when you say
16 "nature of technology," what do you mean?

17 Q Well, did you understand that McKinsey was --
18 the people, the employees of McKinsey, were communicating
19 with Zack Taylor in any respect regarding this project?

20 A Oh, I don't remember. I'm sure they must have
21 because they were looking at all the aspects.

22 Q What is your understanding of who Zack Taylor is
23 to Century-Board?

24 A My understanding was that Zack Taylor did work
25 for Century-Board in Poughkeepsie and was an affiliate of

1 some kind with Wade. Wade recommended him.

2 Q Did you have an understanding of the type of
3 work that Mr. Taylor was involved in with Century-Board?

4 A Not specifically, no.

5 Q Did you understand that Mr. Brown's expertise
6 with Century-Board was in chemistry and chemical
7 processes?

8 A Well, at least that.

9 Q Other things?

10 A Somebody put his plant together, so I assume he
11 had knowledge of his plant.

12 Q Do you have any -- do you have an understanding
13 of Mr. Taylor's expertise?

14 A Yeah, I think so.

15 Q And what is your understanding?

16 A He's a lawyer and a businessman.

17 MR. BROWN: The other Taylor.

18 MR. JULANDER: Did I say "John"? I meant to say
19 "Zack."

20 MR. ROBINSON: You just didn't say.

21 BY MR. JULANDER:

22 Q Okay. I referenced Mr. Taylor. That would be
23 ambiguous, I apologize.

24 What's your understanding of the expertise of
25 Zack Taylor?

1 A He appears to be an expert in winding glass
2 fibers around pressure cylinders for rockets.

3 Q He certainly has that expertise. Do you
4 understand that Mr. Taylor is a licensed mechanical
5 engineer?

6 A I didn't know that.

7 Q Do you have an understanding as to any of the
8 work that Mr. Taylor had done with Century-Board leading
9 up to the negotiations with Ameren?

10 A No.

11 Q Did you -- do you have an understanding today --
12 as you sit here today, of what Mr. Taylor's expertise is
13 in terms of the process of forming the plastic lumber?

14 A Yes.

15 Q What is your understanding as you sit here
16 today?

17 A I found out that he didn't know what a P&ID was.
18 He didn't know how to design pumping systems. He didn't
19 know how to do pressure calculations for pressure
20 dropping lines. He seemed to have very little total
21 process knowledge. I had to press him to get things from
22 him.

23 Q Those sound like system-control issues.

24 A Yes -- well, system issues, process issues.

25 Q Process issues. What is your understanding as

1 to Mr. Taylor's involvement with the design of the first
2 forming unit that was made for Century Products?

3 A Sorry. Would you repeat that?

4 MR. JULANDER: Would you read that back, please?

5 (Record read.)

6 THE WITNESS: I think he designed it while he
7 was working for Century Products.

8 BY MR. JULANDER:

9 Q So you acknowledge that he did design the first
10 forming unit?

11 A Yes.

12 Q And your -- it sounds to me your contention,
13 different issue is that he did that while working for
14 Century Products?

15 MR. ROBINSON: Objection. Ambiguous.

16 You're asking his understanding?

17 MR. JULANDER: Yes.

18 MR. ROBINSON: Okay.

19 THE WITNESS: Yes.

20 BY MR. JULANDER:

21 Q Do you have any information as to the state of
22 Mr. -- as to the state of the design of the first
23 forming unit that was made for Century Products prior to
24 November 26, 2002?

25 A Yes. I remember meeting with Mr. Taylor in

1 August of 2002 where he put forward some of his ideas for
2 making a forming unit which were very much in a formal
3 stage. And I objected at the time that I didn't think
4 that it would be a commercial unit. And he said he
5 thought it would be for demonstration only, and we told
6 him no, we want something that would produce for
7 commercially. And --

8 Q Do you recall anything else about that meeting?

9 A Well, the main things that I remember, I
10 remember at the time -- well, I'm not sure.

11 Q Did he make any sort of a presentation, or was
12 it just a discussion?

13 A I believe it was a discussion.

14 Q Were there any drawings or diagrams that were
15 created in connection with that meeting?

16 A At that point, he had no drawings.

17 Q That you were aware of?

18 A That I was aware of. He didn't produce any
19 drawings.

20 Q Was he asked to produce drawings at that meeting
21 in August of 2002?

22 A Not specifically.

23 Q So the fact that he didn't produce drawings
24 isn't a surprise?

25 MR. ROBINSON: Objection. Argumentative.

1 THE WITNESS: I would say it's a bit of a
2 surprise because if you're going to a meeting to discuss
3 something, you would take it with you if you had it.

4 BY MR. JULANDER:

5 Q You would take something?

6 A And I think he would too.

7 Q Well, did you ask Mr. Taylor, "Do you have
8 drawings?"

9 A I don't remember.

10 Q Did Mr. Taylor say, "I don't have any drawings"?
11 Or do you have any evidence that Mr. Taylor had no
12 drawings whatsoever of a forming unit in August of 2002?

13 MR. ROBINSON: Objection. Argumentative, calls
14 for a legal conclusion.

15 Go ahead and answer it.

16 THE WITNESS: I can't say specifically he had no
17 drawings. He didn't produce any drawings at that
18 meeting.

19 BY MR. JULANDER:

20 Q And he wasn't asked to produce any drawings?

21 A He wasn't asked -- well, I don't know. I don't
22 remember. It only makes sense, though, if you have some,
23 you would produce them.

24 Q At that meeting in August of 2002, Mr. Taylor --
25 was he working for Century Products?

1 A I can't remember what date his contract was. I
2 don't remember.

3 Q Have you ever had an opportunity to read the
4 McKinsey report, any part of it?

5 A I think I did a long time ago.

6 Q Did you ever see anything other than sheets,
7 horizontal landscape-type sheets that looked like a power
8 plant presentation?

9 A McKinsey?

10 Q Yes.

11 A I don't remember.

12 Q Did you ever see a book prepared -- a booklet
13 prepared by McKinsey for Ameren?

14 A I don't remember.

15 Q Did you personally have any direct input with
16 McKinsey in their due diligence for Ameren?

17 A We had some meetings with them, but I don't
18 specifically remember the topics.

19 Q Did you lend any of your expertise to the
20 discussion with McKinsey regarding the technology or the
21 process of manufacturing plastic lumber?

22 A I don't think so. Certainly nothing that I
23 wouldn't have learned. But Wade wasn't very
24 communicative, so I probably didn't know much.

25 Q Sorry. I got to figure out my binder here.

1 They renumbered them for me this morning. Sorry, about
2 that.

3 I'm going to hand you a document that I'm going
4 to mark as Exhibit 6. For the record, Exhibit 6 is an
5 e-mail dated September 23, 2003 from Mr. Wade Brown.

6 A Yes.

7 (Exhibit No. 6 marked for identification.)

8 BY MR. JULANDER:

9 Q This e-mail is written to someone named Jess,
10 J-e-s-s, at McKinsey, apparently?

11 A Right.

12 Q With a copy of this to among others,
13 Mr. Butteriss; right?

14 A Yes.

15 Q Did you actually receive this e-mail,
16 Mr. Butteriss?

17 A I don't remember.

18 Q Was that your e-mail address at the time?

19 A Yes.

20 Q This particular document, in this document,
21 Mr. Brown is communicating to Jess at McKinsey --

22 A Uh-huh.

23 Q -- information regarding the forming unit for
24 the decking; correct?

25 A Correct.

1 Q And he indicates on the first page that we could
2 use a standard off-the-shelf puller to form the decking
3 lumber; do you see that?

4 A Uh-huh, yes.

5 Q Do you recall conversations with Mr. Brown or
6 Mr. Taylor about using an off-the-shelf --

7 A Yes.

8 Q -- puller? Did you have an understanding as the
9 president of Century Products and as an engineer in your
10 own rite, as to how an off-the-shelf puller could form a
11 plastic lumber?

12 A Only according to Wade telling me.

13 Q What did Wade tell you in that regard?

14 A He showed us a photograph of a puller that was
15 maybe this long (indicating).

16 MR. ROBINSON: We need to --

17 THE WITNESS: Sorry. Two, three feet long.

18 BY MR. JULANDER:

19 Q Tabletop puller?

20 A Tabletop puller, that he'd used somewhere in one
21 of the -- in one of the runs that he did at an extruder
22 manufacturer. That's the only thing I saw in the way of
23 a puller.

24 Q Is this the first you've ever -- you've heard of
25 the idea of using a puller to form the plastic lumber?

1 A No.

2 Q Had you heard of this idea before from some
3 other source?

4 A Before what?

5 Q Before the information was given to you, whether
6 it was in this e-mail or before this e-mail, from
7 Mr. Brown.

8 A I guess the answer is no. But I do recognize
9 the table.

10 Q Do you -- did you have an understanding that
11 what Mr. Brown was proposing here was two different types
12 of forming systems?

13 A Which two?

14 Q A puller and then a forming system that was
15 designed by Mr. Taylor that originally he presented you
16 in August.

17 MR. ROBINSON: Can I call it -- just a technical
18 point. Are we talking -- objection. Ambiguous, because
19 you haven't specified any time. Are you talking as of
20 September 2002?

21 BY MR. JULANDER:

22 Q Let's say the due diligence period for Ameren.

23 A Uh-huh.

24 Q Did you understand that Mr. Brown and Mr. Taylor
25 were proposing at least two, in fact, three different

1 types of forming unit systems for forming the lumber?

2 A We had talked about using a puller to -- as a
3 backup. And in fact, Mr. Brown had a company in New York
4 who was also working on something. And I believe at the
5 time he said he might be able to get them to pay for it.

6 Q What's your understanding of what a puller is?

7 A It's a device for pulling extrusions and cables,
8 things like that, for -- as a downstream piece of
9 equipment in a production line.

10 Q Had you personally had any use with -- involving
11 a puller prior to your involvement with Century-Board and
12 Century Products?

13 A Only many years ago when I worked for GEC. They
14 used a similar device to make Tungsten wiring.

15 Q In fact, that's what a puller typically does,
16 isn't it?

17 A That's what it -- yes.

18 Q A puller is basically pulling wire through so
19 that it could be coated with plastic?

20 A Among other things.

21 Q And other things. Can we agree, based on -- as
22 you sit here today, that a puller is not typically used
23 to form plastic lumber?

24 A As far as I know. I'm not familiar with all
25 plastic lumber.

1 Q And can we agree that in September 23, 2002,
2 that the idea of using a puller, if it were to be
3 successful, was indeed an innovation in the manufacture
4 of plastic lumber at that time?

5 MR. ROBINSON: Objection. Ambiguous, calls for
6 speculation, no foundation.

7 THE WITNESS: I don't know that.

8 BY MR. JULANDER:

9 Q To the best of your knowledge, can we agree that
10 the use of a puller to manufacture or form plastic lumber
11 in September of 2002 was an innovation?

12 MR. ROBINSON: Objection. Again, no foundation
13 and ambiguous.

14 THE WITNESS: I don't know.

15 BY MR. JULANDER:

16 Q No, you don't know what the best of your
17 knowledge is?

18 A I don't know what is used in another possibly
19 plastic industry to make lumber. I don't know whether
20 they use pullers or whether they don't use pullers.

21 Q So to the best of your information, then, the
22 answer to my question is "yes"? You don't know of anyone
23 else that's using it?

24 A You said it's an innovation. I don't know
25 whether it was an innovation or not.

1 Q Mr. Butteriss, you've got to listen to my
2 question. We're just going to do this all day.

3 MR. ROBINSON: Excuse me --

4 BY MR. JULANDER:

5 Q So I'm going to ask you the question again, and
6 I just want you to work with me. I'm not trying to trick
7 you. I'm not trying to do anything that isn't more
8 straightforward than just getting an answer to a simple
9 question. I'm trying to get the best -- I'm trying to
10 get your knowledge. I don't care about your counsel's
11 knowledge. I don't care about Mr. Taylor's knowledge. I
12 don't care about experts' knowledge beyond you.

13 You're the one sitting in the chair; fair? Do
14 you understand?

15 A No.

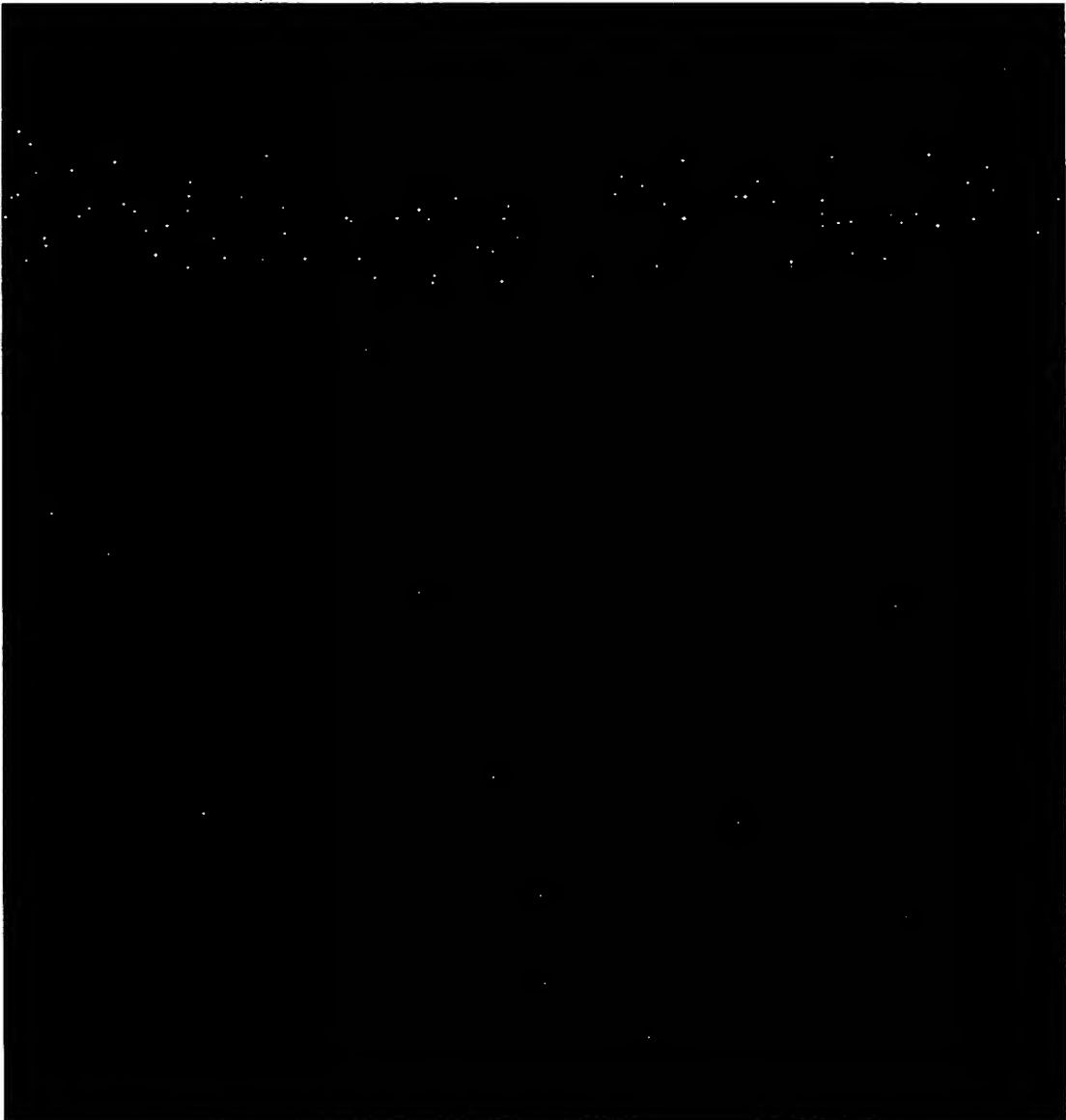
16 Q You don't understand? All right. Well, let's
17 go into this a little bit and understand this.

18 MR. ROBINSON: Well, Counsel he's answered your
19 question.

20 MR. JULANDER: You're sitting here today as a
21 deponent -- do you have an objection? Put it on the
22 record.

23 MR. ROBINSON: I have an objection. Number one,
24 you're not letting the witness answer the question.
25 Number two, you're badgering the witness. Number three,

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Q Okay. I'm asking for your knowledge of the use of pullers in the plastic lumber industry as of September of 2002. Did you have any personal knowledge from any source whatsoever that a puller had been used to form plastic lumber prior to September 23, 2002?

MR. ROBINSON: You can answer that "yes" or "no."

1 THE WITNESS: Yes.

2 BY MR. JULANDER:

3 Q And what is your knowledge?

4 A I'd seen Wade's photographs of him using it.

5 Q Okay. Other than what Mr. Brown had done in

6 terms of using a puller, do you have any knowledge that

7 anyone else was using a puller to form plastic lumber?

8 A No.

9 Q Is that same thing true till today with -- with

10 excluding, of course, Century Products' use of a puller;

11 right?

12 A Yes -- well, no, we're not using a puller.

13 Q Okay. Well, then, we'll get to that. Are you

14 familiar with anyone else in the plastic lumber industry

15 today that is using a puller to form plastic lumber?

16 A I believe, yes.

17 Q And who is that?

18 A I was at CDS last summer, and they showed me a

19 machine there with an extruder and what looked like a

20 puller for making -- I'm not sure if it was making

21 plastic lumber. It was making a plastic of some sort.

22 Q CDS. What does CDS stand for?

23 A Custom Downstream Systems.

24 Q Where is it located?

25 A In Canada.

1 Q Toronto?

2 A Yeah -- no, Montreal.

3 Q Montreal. That's the company that built the
4 machine that Century Products is using; right?

5 A Yes, yes.

6 Q Is Custom Downstream Systems -- are they in the
7 plastic manufacturing business?

8 A Yes -- well, no, no. They make machinery of
9 plastics.

10 Q They make pullers; right?

11 A Amongst other things.

12 Q Okay. What else do they make?

13 A They make saws, they make probably oh,
14 half-dozen different kinds of machine that do pulling or
15 something similar. They call them complete hole -- I
16 call them haul-off machines. They make bars for the
17 plastics industry. I'm just trying to remember what I
18 saw there. They make various downstream systems for
19 plastics industries.

20 Q We can agree that Custom Downstream Systems is
21 not in the plastic lumber business; right?

22 A They do not manufacture plastic lumber, no.

23 Q And when you were at plastic -- or at the Custom
24 Downstream Systems and you saw them using an extruder
25 with I puller --

1 A I didn't see them using anything. They just
2 showed me a piece of equipment.

3 Q They just showed you there -- on the floor was a
4 puller being downstream from an extruder?

5 A Yes, I believe it was.

6 Q And the purpose of the puller in that setup was
7 to mold or manufacture plastic materials?

8 A I don't remember.

9 Q What do you remember about it? Because you sent
10 me down that path. I asked you -- let me go back.

11 A I remember them showing me an extruder and a
12 piece of their equipment downstream of the extruder. I
13 think it was for making -- making thermoplastic lumber,
14 but I'm not sure.

15 Q And is that what they told you?

16 A Yes -- well, I don't remember what they told me.

17 Q Well, which is it?

18 A I don't remember.

19 Q You don't remember?

20 A No.

21 Q Okay. Was this for a competitor?

22 A No.

23 Q For whom was the machine intended, if you know?

24 A I didn't know.

25 Q It was just sitting there on their floor, and

1 they showed it to you?

2 A Yes, yes.

3 Q Is that a machine that they sell to anybody who
4 walks through the door?

5 A It was specifically ordered by a customer, I
6 believe.

7 Q They told you that?

8 A (No audible response.)

9 Q But they didn't tell you which customer?

10 A No.

11 Q Tell me everything else you know about that
12 particular machine that you saw.

13 A I don't know anything else about it.

14 Q That's it?

15 A Uh-huh.

16 Q Okay, all right. Other than Custom Downstream
17 Systems, are you aware of any other company that is using
18 a puller to form plastic lumber?

19 A No.

20 MR. ROBINSON: Well, objection. I think it
21 misstates the testimony, but the answer is in.

22 I think you started off -- well, asking
23 something about knowledge, and he tried to explain what
24 his knowledge was, and that's how he got to CDS. So I
25 don't think CDS was ever using it to manufacture

1 plastics. The question was misstating what was said.

2 BY MR. JULANDER:

3 Q To be specific, then, in September of 2002
4 through into November, as McKinsey was doing its due
5 diligence, Century-Board had presented basically three
6 forming systems for -- to McKinsey for the potential use
7 of Century Products; is that your memory?

8 A I don't remember there being three systems.

9 MR. ROBINSON: Have you had a chance to read
10 this memorandum?

11 THE WITNESS: No.

12 MR. ROBINSON: Can you -- he's trying to look at
13 it and trying to answer the questions at the same time.

14 MR. JULANDER: Absolutely. Take as much time as
15 you need. In fact, we'll go off the record for just a
16 minute.

17 (Recess.)

18 MR. JULANDER: All right. We're back on the
19 record.

20 BY MR. JULANDER:

21 Q I want to focus again back in September --
22 actually, let me broaden the time frame. From November
23 2002, back when you first began working with
24 Century-Board or Wade, in that time period, I'd like to
25 know what information you had regarding the forming of

1 plastic lumber, during that time frame..

2 A I would -- well, I knew that Wade was using box
3 molds and that he had photographs of what he'd done in
4 one of the extruder --

5 Q With that tabletop puller?

6 A Yes.

7 Q Is that the extent of your knowledge up through
8 November?

9 A Yes.

10 Q Well, of course, you also had the meeting in
11 August?

12 A Okay. Well, yes.

13 Q So you had a meeting in August with
14 Mr. Taylor --

15 A Yes.

16 Q -- where he discussed various ideas apparently
17 about the molding unit?

18 A Yes.

19 Q And then you had information from Mr. Brown?

20 A Yes.

21 Q Any other information you had regarding the
22 forming of plastic lumber on a continuous basis?

23 A No.

24 Q Have you told us everything you recall about
25 that August meeting with Mr. Taylor?

1 A I believe so.

2 Q Do you recall who attended that meeting?

3 THE WITNESS: I think I gave you something --
4 sorry.

5 MR. ROBINSON: He's asking you a question. Just
6 answer the question; okay?

7 THE WITNESS: No.

8 BY MR. JULANDER:

9 Q But you apparently took notes during the
10 meeting?

11 A Yeah.

12 Q But you have meeting notes from that meeting?

13 A Yes.

14 Q And you'll give those to counsel?

15 A Yes.

16 MR. JULANDER: And Mr. Robinson, you'll give me
17 a copy when you get them?

18 MR. ROBINSON: Sure.

19 BY MR. JULANDER:

20 Q Do you recall any other meetings up to
21 November 26, 2002 involving the forming unit or any type
22 of forming unit?

23 A Not specifically.

24 Q Are you aware of any representations made by
25 Mr. Brown or a company affiliated with Mr. Brown

1 regarding the forming unit to Ameren which you believe
2 are untrue?

3 A Would you repeat that?

4 MR. JULANDER: Can we read it back? And if I
5 need to, I'll rephrase it for you if you need it.

6 (Record read.)

7 MR. ROBINSON: Objection. Compound, ambiguous.

8 Answer "yes" or "no" only.

9 BY MR. JULANDER:

10 Q Do you understand the question? And it's not a
11 pretty question. So --

12 A No, it isn't. And --

13 Q Well, let me withdraw it and let me try and
14 rephrase it.

15 Are you aware of any representations to Ameren
16 that were made by Mr. Brown or actually on behalf of
17 Century-Board relating to the method of forming plastic
18 lumber that you believe are untrue?

19 A I really don't know what the answer is to that.
20 I suppose it's "no."

21 Q Go ahead and think about it. If you can think
22 of something that you believe was a misrepresentation or
23 an untrue representation to Ameren regarding the method
24 of forming plastic lumber, I want to know about it.

25 A No, I'm not aware of anything.

1 Q During your due diligence period in -- or let me
2 withdraw that.

3 During the period of time that you were
4 investigating the technology that Mr. Brown was offering
5 for investment or commercialization, did you become aware
6 that Mr. Brown, or Ecomat rather, had registered four
7 patents with the United States Trademark and Patent
8 Office?

9 A I was aware that four patents were registered.

10 Q We've been commonly referring to those as the
11 Mushovic patents.

12 A Yes.

13 Q Are you familiar with -- he was the original
14 inventor of the system that we're talking about; right?

15 A Yes.

16 Q Did you have any understanding up to
17 November 2002 as to whether or not the technology that
18 Mr. Brown was bringing to Century Products for
19 commercialization was practicing or using the Mushovic
20 patent technology?

21 A I understood that was what we were getting.

22 Q Did you have any understanding that you were --
23 that Mr. Brown had another process that was similar to
24 the Mushovic patented process but indeed different in the
25 material respects?

1 A I thought what we were getting was a patent
2 process. I wasn't aware of anything else.

3 Q You were not aware of any process that was
4 trade -- that was protected by trade secrets?

5 A No.

6 Q Up to November of 2002?

7 A No.

8 Q Did you later become aware that there was a
9 different process other than the patented processes that
10 Century-Board was using or intending to use in connection
11 with the commercialization at Century Products?

12 A Yes.

13 Q When did you first become aware of that?

14 A Probably about middle of 2003.

15 Q Tell me everything you recall about that.

16 A I remember sitting in the office at Century
17 Products, and it came out that Wade was not using the
18 patented product. He was using something else.

19 Q And you were -- if I'm understanding your
20 testimony correctly, at this point in time, you were
21 unaware that there was even any other process?

22 A Correct.

23 Q You were only aware of one process, and it was
24 the process that was represented in the patents; is that
25 true?

1 A I thought that that was what Wade was
2 practicing, yes.

3 Q Why did you think that?

4 A Because that's what Wade had told me.

5 Q And it's your testimony that Wade never told you
6 that there was a second process that Century-Board had
7 been using and was intending to use with Century
8 Products?

9 A That's correct.

10 Q That was protected by trade secrets as opposed
11 to the four patents?

12 A He never told me that.

13 Q Is it your testimony that Mr. Brown never told
14 you that he intended to file new patents for a second
15 process?

16 A I wasn't aware of that.

17 Q And you first became aware that Mr. Brown was
18 not practicing the Mushovic patents in the summer of
19 2003?

20 A Yes.

21 Q Do you recall how that was brought to your
22 attention?

23 A I remember we were sitting in the office at
24 Anaheim, and I can't remember what -- what initiated that
25 conversation. It may have been something to do with

1 styrene because we have no -- Wade told us there was no
2 emissions from our process that we had to report to the
3 South Coast Air Quality Management District. And I
4 remember being very surprised and somewhat chagrined to
5 find out that we weren't using a patented process.

6 Q Do you have any information, or did you -- well,
7 let me ask you that first. Do you have any information
8 that Mr. Brown intentionally misled you into believing
9 that he was -- that Century-Board would be practicing the
10 patented process when, in fact, he was going to be using
11 an unpatented different process?

12 MR. ROBINSON: Objection. Ambiguous,
13 argumentative.

14 THE WITNESS: I'm aware that we sat in front of
15 a lot of prospective investors and Ameren and
16 specifically told them that we had a patented process,
17 that it was protected by the patents, and represented
18 that was what we were going to be doing. And I would
19 never have done that if I'd understood that we were not
20 going to be doing that.

21 BY MR. JULANDER:

22 Q First of all, the patented process -- do you
23 know if that is anything that Mr. Brown, through
24 Century-Board or its predecessor, Ecomat, had actually
25 used and practiced?

1 A I don't know.

2 Q Do you have any information that the patented
3 process is actually a process that -- that is viable in
4 the same way that the Century-Board -- the second
5 process, unpatented process was viable in New York?

6 MR. ROBINSON: Objection. Ambiguous.

7 MR. JULANDER: Yeah, that's a terrible --

8 THE WITNESS: I don't understand the question
9 either.

10 BY MR. JULANDER:

11 Q That's all right. That's fair.

12 In other words, you've seen boards from
13 New York; right?

14 A Yes.

15 Q There's some process that made those boards;
16 right?

17 A Yes.

18 Q Do you know if that was the patented process
19 that made those boards?

20 A I assumed that it was. I was told that they
21 were using a patented process, so I assumed that that's
22 what it's made from. You can't tell by looking at it.

23 Q So you assumed that all of the boards that you
24 had seen were made from the patented process?

25 A Yes.

1 Q Do you have an understanding of the difference
2 between the patented process and the second trade secret
3 protected process?

4 MR. ROBINSON: As of this date?

5 MR. JULANDER: Yes, sure, today.

6 THE WITNESS: As of today, I understand it's
7 different, yes.

8 BY MR. JULANDER:

9 Q What is your understanding?

10 A That one is a polyester-based system and one is
11 a polyethylene.

12 Q Which is the patented system in your
13 understanding?

14 A The polyester-based.

15 Q And that's the system that does require
16 ventilation and it gives off fumes?

17 A Yes, I understand. I don't know that for a
18 fact.

19 Q Now, do you know if Mr. Brown ever disclosed to
20 Ameren, during its due diligence process before
21 November 26, 2002, that, in fact, he was using -- he had
22 two different systems? Do you know?

23 A I don't know.

24 Q Have you ever discussed with anyone at Ameren
25 your belief that Mr. Brown misled Ameren as to the nature

1 of the system he was presenting to be used at Century
2 Products?

3 A Yes. We had a discussion -- the first
4 discussion we had was with Andrew Southwell to tell him
5 that, in fact, he did not have a patented product.

6 Q That was a surprise to him?

7 A It was a surprise to him.

8 Q And how do you know that?

9 A Because he said so.

10 Q Is it your belief that Mr. Brown never disclosed
11 to Ameren that he, in fact, had two different
12 formulations; one was patented, one was not?

13 A I believe that he did not.

14 Q Why do you believe that?

15 A Well, it's hard to understand why they would be
16 surprised when we told them.

17 Q When did you tell them, by the way? When did
18 you tell Mr. Southwell that?

19 A It's got to be like June, maybe, of 2003.

20 Q Was the -- the revelation to you that the
21 process Mr. Brown was using was unpatented -- was that an
22 important revelation?

23 A Yes, indeed it was.

24 Q Why?

25 A It meant that I'd stood up in front of a lot of

1 investors and given them some false information, and I
2 felt very badly about that.

3 Q Were there any ramifications from Ameren when
4 you told them that the process that Mr. Brown was using
5 was unpatented?

6 MR. ROBINSON: Objection. Ambiguous.

7 THE WITNESS: I -- yeah, I'd say it's hard to
8 say what ramifications are --

9 BY MR. JULANDER:

10 Q Well --

11 A At the time we told Mr. Southwell, he was
12 perhaps more concerned of the fact that we couldn't make
13 anything than he was that it wasn't patented. Obviously,
14 he wanted us to do something about the patents at some
15 point. But he said, "If you're not making anything, it
16 doesn't make any difference."

17 Q Do you know who Pat Rasche is, R-a-s-c-h-e?

18 A I believe he's a patent lawyer for Ameren.

19 Q Do you recall that Ameren had hired Mr. Rasche
20 before November of 2002 to do due diligence on the
21 intellectual property of Mr. Brown or Century Products?

22 A I don't remember the dates.

23 Q I'm sorry, Century-Board.

24 A Uh-huh.

25 Q You do recall that Mr. Rasche was involved in

1 the due diligence with Ameren?

2 A I know that he's a patent lawyer. I don't know
3 exactly what he did for Ameren in the way of due
4 diligence.

5 Q I'm going to hand you a document now that we're
6 going to mark as Exhibit 7. For the record, Exhibit 7 is
7 an e-mail from Mr. Brown dated September 23, 2002 to
8 Patrick Rasche regarding Century Products' patents. The
9 first page of this document is the e-mail. Sentence
10 begins, "Dear Pat, Attached is what I think you asked
11 for. It is in Word." The second page of this is the --
12 is a Word document.

13 (Exhibit No. 7 marked for identification.)

14 BY MR. JULANDER:

15 Q I'll represent to you, Mr. Butteriss --

16 A Uh-huh.

17 Q -- that this is a document I received from
18 Century Products; okay? Have you ever seen this document
19 before?

20 A I don't recall having seen it.

21 Q September 23, 2002. Can we agree that Ameren
22 was in the middle or at least in the process of doing its
23 due diligence on Century Products' proposal?

24 A Yes.

25 Q Including, of course, the Century-Board

1 technology?

2 A Uh-huh.

3 Q I'd like you to look at the second paragraph
4 beginning "there are two formulations we use"; do you see
5 that?

6 A Uh-huh.

7 Q Is it your testimony that Mr. Brown never shared
8 with you that he was using two formulations?

9 A Correct.

10 Q But he shared it with Mr. Rasche, apparently?

11 MR. ROBINSON: Well, objection. The witness
12 didn't author this memo. May or may not -- no
13 foundation. It's argumentative. It says what it says.
14 I don't think there's any basis for him to interpret
15 what's in it.

16 BY MR. JULANDER:

17 Q I'd like you to look down at paragraphs that are
18 numbered 1 and 2.

19 A Uh-huh.

20 Q What's your understanding as you sit here today
21 with the Century -- with the process that was being
22 produced at that time? Can you see a distinction between
23 the process of Formulation No. 1 -- or I'm sorry, the raw
24 material Mix No. 1 and raw material Mix No. 2?

25 MR. ROBINSON: Objection. No foundation,

1 calling for an expert opinion from a lay witness.

2 THE WITNESS: Well, the words are different.

3 BY MR. JULANDER:

4 Q Do you see that raw material Mix No. 1 involves
5 unsaturated polyester?

6 A Correct.

7 Q That would be the Mushovic patented process as
8 far as you understand?

9 MR. ROBINSON: Objection. No foundation,
10 calling for not only a chemical opinion, but a patent
11 opinion from a lay witness.

12 BY MR. JULANDER:

13 Q Do you need more time to read this,
14 Mr. Butteriss?

15 A Just on the surface, looking at it, it says he's
16 going to make a polyester material.

17 Q Well, he says "we use a"; right? Not going to
18 say this is a -- "we use a prereacted mixture of an
19 unsaturated polyester and vinyl monomer"; right?

20 A So you're saying he uses it but he's not going
21 to use it?

22 Q I'm not here to argue with you.

23 A I don't understand what you're trying to tell
24 me.

25 Q I am -- I'm asking your understanding, that it's

1 the polyester --

2 A Well, that is presumed --

3 Q -- component -- is the component that you were
4 mentioning before that was unique to the Mushovic
5 patents; right?

6 MR. ROBINSON: Okay, objection. No foundation.
7 This witness is not going to give opinions on a memo he
8 hasn't written and that calls for an application of
9 patent law and expert opinions --

10 MR. JULANDER: I'm not asking for his opinions.

11 MR. ROBINSON: -- chemistry. Well, sure, you
12 are. You're asking him to interpret this.

13 MR. JULANDER: No. I'm asking for his
14 understanding.

15 MR. ROBINSON: Well, that's the same as an
16 opinion, so let's split hairs with that one.

17 MR. JULANDER: Counsel, put your objections on
18 the record.

19 MR. ROBINSON: You're not required -- you're
20 saying that the witness is required to have an
21 understanding on a subject of a memo he hasn't written?

22 MR. JULANDER: Oh, absolutely not. He's already
23 testified of his understanding of the Mushovic patents
24 and his understanding of the second process. And I'm
25 just trying to find out if his understanding matches

1 what's in this document, Exhibit No. 7.

2 MR. ROBINSON: Okay. If you have an
3 understanding, you can answer. If you do not have an
4 understanding, you're not required to invent one.

5 BY MR. JULANDER:

6 Q And that is true for every question I ask you;
7 fair, Mr. Butteriss?

8 A Uh-huh.

9 Q Okay. Now, do you see in -- actually, back to
10 raw material Mix No. 1, the polyester component. That's
11 the same component that you addressed earlier relating to
12 the Mushovic patents; right?

13 MR. ROBINSON: Objection. No foundation. The
14 witness isn't qualified to give that opinion.

15 THE WITNESS: I don't know whether this is
16 according to the Mushovic patent or not.

17 MR. JULANDER: Okay. I'm not asking you whether
18 this is according to the Mushovic patent or not.

19 Would you please read my question back?

20 And I'd like you to answer my question,
21 Mr. Butteriss.

22 (Record read.)

23 MR. ROBINSON: Ambiguous, calls for expert
24 opinion from a lay witness, no foundation.

25 Do you have an answer to that question?